

Calendar No. 332114TH CONGRESS
1ST SESSION**S. 1694****[Report No. 114–187]**

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

DECEMBER 16, 2015

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Yakima River Basin
3 Water Enhancement Project Phase III Act of 2015”.

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

6 (a) **MODIFICATION OF TERMS.—**

7 (1) **IN GENERAL.—**Title XII of Public Law
8 ~~103–434~~ (108 Stat. 4550) is amended—

9 (A) by striking “Yakama Indian” each
10 place it appears and inserting “Yakama”; and

11 (B) by striking “Superintendent” each
12 place it appears and inserting “Manager”.

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

15 (A) in the section heading by striking “**IN-**
16 **DIAN**”; and

17 (B) in subsection (g); in the subsection
18 heading; by striking “YAKAMA INDIAN NA-
19 TION” and inserting “YAKAMA NATION”.

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

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

24 “(1) to protect, mitigate, and enhance fish and
25 wildlife and the recovery and maintenance of self-
26 sustaining harvestable populations of fish and other

1 aquatic life, both anadromous and resident species,
2 throughout their historic distribution range in the
3 Yakima Basin through—

4 “(A) improved water management and the
5 constructions of fish passage at storage and di-
6 version dams, as authorized under the Hoover
7 Power Plant Act of 1984 (43 U.S.C. 619 et
8 seq.);

9 “(B) improved instream flows and water
10 supplies;

11 “(C) improved water quality, watershed,
12 and ecosystem function;

13 “(D) protection, creation, and enhance-
14 ment of wetlands; and

15 “(E) other appropriate means of habitat
16 improvement;”

17 (2) in paragraph (2), by inserting “, municipal,
18 industrial, and domestic water supply and use pur-
19 poses, especially during drought years, including re-
20 ducing the frequency and severity of water supply
21 shortages for pro-ratable irrigation entities” before
22 the semicolon at the end;

23 (3) by striking paragraph (4);

24 (4) by redesignating paragraph (3) as para-
25 graph (4);

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

3 “~~(3)~~ to authorize the Secretary to make water
4 available for purchase or lease for meeting munic-
5 ipal, industrial, and domestic water supply pur-
6 poses;”;

7 (6) in paragraph (5), by striking “and” at the
8 end;

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

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

12 “~~(7)~~ to improve the resilience of the ecosystems,
13 economies, and communities in the Basin as they
14 faced drought, climate variability, and climate
15 change; for the benefit of both the people and the
16 fish and wildlife of the region; and

17 “~~(8)~~ to authorize and implement the Yakima
18 River Basin Integrated Water Resources Manage-
19 ment Plan as Phase III of the Yakima River Basin
20 Water Enhancement Project, in a balanced approach
21 to maximize benefits to the communities and envi-
22 ronment in the Basin.”;

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

1 (1) by redesignating paragraphs (6), (7), (8),
 2 (9), (10), (11), (12), (13), and (14) as paragraphs
 3 (7), (10), (11), (12), (13), (14), (15), (17), and
 4 (19), respectively;

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

7 “(6) DESIGNATED FEDERAL OFFICIAL.—The
 8 term ‘designated Federal official’ means the Com-
 9 missioner of Reclamation (or a designee), acting
 10 pursuant to the charter of the Conservation Advisory
 11 Group.”;

12 (3) by inserting after paragraph (7) (as redesign-
 13 ated by paragraph (1)) the following:

14 “(8) MANAGEMENT PLAN.—The term ‘Manage-
 15 ment Plan’ means the plan described in the docu-
 16 ment entitled ‘Final Programmatic Environmental
 17 Impact Statement and Integrated Water Resource
 18 Management Plan, Yakima River Basin, Water En-
 19 hancement Project, Benton, Kittitas, Klickitat, and
 20 Yakima Counties, WA’ (77 Fed. Reg. 12076 (Feb-
 21 ruary 28, 2012)).

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

1 “(A) domestic consumption (whether urban
2 or rural);

3 “(B) maintenance and protection of public
4 health and safety;

5 “(C) manufacture, fabrication, processing,
6 assembly, or other production of a good or com-
7 modity;

8 “(D) production of energy;

9 “(E) fish hatcheries; or

10 “(F) any conservation activity relating to a
11 use described in any of subparagraphs (A)
12 through (E).”;

13 (4) by inserting after paragraph (15) (as reded-
14 icated by paragraph (1)) the following:

15 “(16) WORK GROUP.—The term ‘Work Group’
16 means the work group that—

17 “(A) is identified in section 90.38.010(2)
18 of the Revised Code of Washington as respon-
19 sible for development of the Management Plan;

20 “(B) includes representatives of—

21 “(i) the Yakama Nation;

22 “(ii) Federal and State governments;

23 “(iii) participating county and city
24 governments;

25 “(iv) environmental organizations; and

1 “(v) irrigation districts; and
 2 “(C) is not subject to the Federal Advisory
 3 Committee Act (5 U.S.C. App.).”]; and
 4 (5) by inserting after paragraph (17) (as redese-
 5 gnated by paragraph (1)) the following:

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

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

22 Section 1203 of Public Law 103–434 (108 Stat.
 23 4551) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1), by striking “title”
2 and inserting “section”; and

3 (B) in paragraph (2), by striking “irriga-
4 tion” and inserting “the number of irrigated
5 acres”;

6 (2) in subsection (c)—

7 (A) in paragraph (2)—

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

11 (ii) in subparagraph (E), by striking
12 the comma at the end and inserting “,
13 and”;

14 (iii) in subparagraph (F), by striking
15 “Department of Wildlife of the State of
16 Washington, and” and inserting “Depart-
17 ment of Fish and Wildlife of the State of
18 Washington.”; and

19 (iv) by striking subparagraph (G);

20 (B) in paragraph (3)—

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

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

1 (iii) in subparagraph (E), by striking
2 the period at the end and inserting “;
3 and”; and

4 (iv) by adding at the end the fol-
5 lowing:

6 “(F) provide recommendations to advance
7 the purposes and programs of the Yakima En-
8 hancement Project.”; and

9 (C) by striking paragraph (4) and insert-
10 ing the following:

11 “(4) DESIGNATED FEDERAL OFFICIAL.—The
12 designated Federal official—

13 “(A) shall arrange and provide logistical
14 support for meetings of the Conservation Advi-
15 sory Group;

16 “(B) may use a facilitator to serve as a
17 moderator for meetings of the Conservation Ad-
18 visory Group or provide additional logistical
19 support; and

20 “(C) shall grant any request for a
21 facilitator by any member of the Conservation
22 Advisory Group.”;

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

1 “(4) PAYMENT OF LOCAL SHARE BY STATE OR
2 FEDERAL GOVERNMENT.—The State or the Federal
3 Government may fund not more than the 17.5 per-
4 cent local share of the costs of the Basin Conserva-
5 tion Program in exchange for the long-term use of
6 conserved water.”;

7 (4) in subsection (c), by striking the first sen-
8 tence and inserting the following: “To participate in
9 the Basin Conservation Program, as described in
10 subsection (b), an entity shall submit to the Sec-
11 retary a proposed water conservation plan.”;

12 (5) in subsection (i)(3)—

13 (A) by striking “purchase or lease” each
14 place it appears and inserting “purchase, lease,
15 or management”; and

16 (B) in the third sentence, by striking
17 “made immediately upon availability” and all
18 that follows through “Committee” and inserting
19 “continued as needed to provide water to be
20 used by the Yakima Project Manager as rec-
21 ommended by the System Operations Advisory
22 Committee and the Conservation Advisory
23 Group”; and

24 (6) in subsection (j)(4), in the first sentence, by
25 striking “initial acquisition” and all that follows

1 through “flushing flows” and inserting “acquisition
 2 of water from willing sellers or lessors specifically to
 3 provide improved instream flows for anadromous
 4 and resident fish and other aquatic life, including
 5 pulse flows to facilitate outward migration of anad-
 6 romous fish”.

7 **SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS,**
 8 **AND AUTHORIZATIONS.**

9 (a) **YAKIMA NATION PROJECTS.**—Section 1204(a)(2)
 10 of Public Law 103–434 (108 Stat. 4556) is amended in
 11 the first sentence by striking “not more than
 12 \$23,000,000” and inserting “not more than \$49,000,000,
 13 at September 2000 prices, plus or minus such amounts
 14 as may be justified by reason of ordinary fluctuations of
 15 applicable cost indexes.”.

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

19 (1) in subsection (a)—

20 (A) in paragraph (4)—

21 (i) in subparagraph (A)—

22 (I) in clause (i)—

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

- 1 (bb) by striking “flushing”
 2 and inserting “pulse”; and
- 3 (cc) by striking “uses” and
 4 inserting “uses, in addition to the
 5 quantity of water provided under
 6 the treaty between the Yakama
 7 Nation and the United States”;
- 8 (II) by striking clause (ii);
- 9 (III) by redesignating clause (iii)
 10 as clause (ii); and
- 11 (IV) in clause (ii) (as so redesi-
 12 gnated) by inserting “and water rights
 13 mandated” after “goals”;
- 14 (ii) in subparagraph (B)—
- 15 (I) in clause (i), in the first sen-
 16 tence, by inserting “in proportion to
 17 the funding received” after “Pro-
 18 gram”; and
- 19 (II) by adding at the end the fol-
 20 lowing:
- 21 “(iii) CALCULATIONS AND DETER-
 22 MINATIONS.—The Yakima Project Man-
 23 ager shall—
- 24 “(I) calculate the total amount of
 25 water conserved and acquired;

1 “(II) determine the amount of
2 water available each year for the pur-
3 pose of delivering or storing Project
4 water for instream flows at variable
5 rates (shaping), considering Yakima
6 Project operational constraints; and

7 “(III) in consultation with the
8 System Operations Advisory Com-
9 mittee, determine how and when the
10 available water will be delivered or
11 stored.

12 “(iv) USE OF CERTAIN PORTION.—

13 The Yakima Project Manager, in consulta-
14 tion with the Systems Operations Advisory
15 Committee, irrigation districts, and the
16 Conservation Advisory Group, may acquire,
17 manage, and use all or a portion of the ir-
18 rigation district’s $\frac{1}{3}$ portion of the saved
19 water resulting from conservation meas-
20 ures taken under this title to increase tar-
21 get flows or otherwise deliver Yakima
22 Project water for instream flows. The right
23 to use that water must be acquired by the
24 Bureau of Reclamation or the State of
25 Washington, in partnership with the Bu-

1 reau of Reclamation, from any willing irri-
 2 gation district seller through purchase, do-
 3 nation, or lease. During drought years,
 4 when the Yakima Project proration level is
 5 set at 70 percent or less of full entitle-
 6 ment, the $\frac{1}{3}$ portion of the saved water ac-
 7 quired under this title may be used to sup-
 8 plement the irrigation districts' and other
 9 entities' water supply under the total water
 10 supply available only if the saved water is
 11 in priority during that time, unless provi-
 12 sions are made to the contrary as a condi-
 13 tion of purchase.”; and

14 (iii) by striking subparagraph (D);
 15 and

16 (B) by striking paragraph (6);

17 (2) in subsection (b) (as amended by section
 18 2(a)(1)(B)), in the second sentence, by striking
 19 “instream flows for use by the Yakima Project Man-
 20 ager as flushing flows or as otherwise”²² and inserting
 21 “fishery purposes, as”; and

22 (3) in subsection (c), by striking paragraph (1)
 23 and inserting the following:

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

1 “(A) To recover and maintain self-sus-
 2 taining harvestable populations of native fish,
 3 both anadromous and resident species, through-
 4 out their historic distribution range in the Yak-
 5 ima Basin.

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

8 “(C) Recreation.

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

11 (e) LAKE CLE ELUM AUTHORIZATION OF APPRO-
 12 PRIATIONS.—Section 1206(a) of Public Law 103-434
 13 (108 Stat. 4560) is amended—

14 (1) in paragraph (1)—

15 (A) in the matter preceding subparagraph
 16 (A), by striking “at September” through “to—
 17 ” and inserting “such sums as are necessary
 18 to—”;

19 (B) by redesignating subparagraphs (A)
 20 through (C) as clauses (i) through (iii), respec-
 21 tively, and indenting the clauses appropriately;
 22 and

23 (C) by striking clause (iii) (as so redesign-
 24 ated) and inserting the following:

1 “(iii) to conduct feasibility studies and
 2 to design, construct, operate, and maintain
 3 fish passage facilities, in addition to any
 4 fish passage facilities authorized by section
 5 109 of the Hoover Power Plant Act of
 6 1984 (16 U.S.C. 839b note; Public Law
 7 98-381), as determined to be feasible and
 8 appropriate within the Yakima River basin;
 9 plus”;

10 (2) by redesignating paragraphs (1) and (2) as
 11 subparagraphs (A) and (B), respectively, and indent-
 12 ing the subparagraphs appropriately;

13 (3) in the matter preceding subparagraph (A)
 14 (as so redesignated), by striking “There is hereby”
 15 and inserting the following:

16 “(1) IN GENERAL.—There is”; and

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

18 “(2) COST SHARING.—

19 “(A) IN GENERAL.—The Secretary may
 20 accept as part of the non-Federal cost-share,
 21 and expend as if appropriated, any contribution
 22 by the State of Washington or others, including
 23 in-kind services, that the Secretary determines
 24 will contribute toward the conduct and comple-
 25 tion of the work.

1 “(B) FEDERAL SHARE.—The Federal cost-
 2 share for the project shall not exceed 50 per-
 3 cent of the total cost of the projects described
 4 in paragraph (1).”.

5 (d) ENHANCEMENT OF WATER SUPPLIES FOR YAK-
 6 IMA BASIN TRIBUTARIES.—Section 1207 of Public Law
 7 ~~103-434~~ (108 Stat. 4560) is amended—

8 (1) in subsection (a)—

9 (A) in the matter preceding paragraph (1),
 10 by striking “supplies” and inserting “manage-
 11 ment”;

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

14 (C) in paragraph (2)—

15 (i) in subparagraph (A), by inserting
 16 “that choose not to participate or opt out
 17 of tributary enhancement projects pursu-
 18 ant to this section” after “water right own-
 19 ers”; and

20 (ii) in subparagraph (B), by inserting
 21 “nonparticipating” before “tributary water
 22 users”;

23 (2) in subsection (b)—

24 (A) in paragraph (1)—

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

4 “(1) IN GENERAL.—The Secretary, following
 5 consultation with the State of Washington, the
 6 Yakama Nation, and on agreement of appropriate
 7 water supply entities, is authorized to conduct stud-
 8 ies to evaluate measures to further Yakima Project
 9 purposes on tributaries to the Yakima River. En-
 10 hancement programs that use measures authorized
 11 by this section may be investigated and implemented
 12 by the Secretary in tributaries, including Taneum
 13 Creek, other areas, or tributary basins that currently
 14 or could potentially be provided supplemental or
 15 transfer water by entities, such as the Kittitas Rec-
 16 lamation District or the Yakima-Tieton Irrigation
 17 District. Measures to evaluate include—”;

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

20 (iii) in subparagraph (A), by inserting
 21 before the semicolon at the end the fol-
 22 lowing: “, including irrigation efficiency
 23 improvements (in coordination with pro-
 24 grams of the Department of Agriculture);
 25 consolidation of diversions or administra-

1 tion, and diversion scheduling or coordina-
2 tion”;

3 (iv) by redesignating subparagraphs
4 (C) through (F) as subparagraphs (E)
5 through (H), respectively;

6 (v) by inserting after subparagraph
7 (B) the following:

8 “(C) improvements in irrigation system
9 management or delivery facilities within the
10 Yakima River basin when those improvements
11 allow for increased irrigation system conveyance
12 and corresponding reduction in diversion from
13 tributaries or flow enhancements to tributaries
14 through direct flow supplementation or ground-
15 water recharge;

16 “(D) improvements of irrigation system
17 management or delivery facilities to reduce or
18 eliminate excessively high flows caused by the
19 use of natural streams for conveyance or irriga-
20 tion water or return water;”;

21 (vi) in subparagraph (E) (as redesign-
22 ated by clause (iv)), by striking “ground
23 water” and inserting “groundwater re-
24 charge and”;

1 (vii) in subparagraph (G) (as redesignated by clause (iv)), by inserting “or
2 transfer” after “purchase”; and

3
4 (viii) in subparagraph (H) (as redesignated by clause (iv)), by inserting “stream
5 processes and” before “stream habitats”;

6
7 (B) in paragraph (2)—

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

11
12 (ii) in subparagraph (B)—

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

16 (II) by striking “and” at the end;

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

20 (iv) by adding at the end the following:
21

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

1 (C) in paragraph (3), in the first sentence,
2 by inserting “of each tributary or group of trib-
3 utaries” after “study”;

4 (3) in subsection (e), in the matter preceding
5 paragraph (1), by inserting “nonsurface storage
6 and” after “implement”;

7 (4) by striking subsection (d);

8 (5) by redesignating subsection (e) as sub-
9 section (d); and

10 (6) in paragraph (2) of subsection (d) (as so re-
11 designated)—

12 (A) in the first sentence—

13 (i) by inserting “and implementation”
14 after “investigation”;

15 (ii) by striking “other” before “Yak-
16 ima River”; and

17 (iii) by inserting “and other water
18 supply entities” after “owners”; and

19 (B) by striking the second sentence.

20 (e) CHANDLER PUMPING PLANT AND POWERPLANT
21 OPERATIONS AT PROSSER DIVERSION DAM.—Section
22 1208(d) of Public Law 103-434 (108 Stat. 4562; 114
23 Stat. 1425) is amended by inserting “negatively” before
24 “affected”.

1 (f) INTERIM COMPREHENSIVE BASIN OPERATING
 2 PLAN.—Section 1210(e) of Public Law 103–434 (108
 3 Stat. 4564) is amended by striking “\$100,000” and in-
 4 serting “\$200,000, at September 2014 prices,”.

5 (g) ENVIRONMENTAL COMPLIANCE.—Section 1211
 6 of Public Law 103–434 (108 Stat. 4564) is amended by
 7 inserting “, at September 2014 prices,” after
 8 “\$2,000,000”.

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

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

13 **“SEC. 1213. PHASE III GRANTS AND COOPERATIVE AGREE-**
 14 **MENTS.**

15 “The Secretary may make grants or enter into coop-
 16 erative agreements with the Yakama Nation, the State of
 17 Washington, Yakima River basin irrigation districts, water
 18 districts, conservation districts, other local governmental
 19 entities, nonprofit organizations, and land owners to carry
 20 out this title under such terms and conditions as the Sec-
 21 retary may require, including the following purposes:

22 “(1) Land and water transfers, leases, and ac-
 23 quisitions from willing participants, so long as the
 24 acquiring entity shall hold title and be responsible

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

3 ~~“(2) Operation and maintenance or manage-~~
4 ~~ment of Federal land acquired under this title, in~~
5 ~~partnership with the Secretary.~~

6 ~~“(3) To combine or relocate diversion points,~~
7 ~~remove fish barriers, or for other activities that in-~~
8 ~~crease flows or improve habitat in the Yakima River~~
9 ~~and its tributaries in furtherance of this title.~~

10 ~~“(4) To implement, in partnership with Federal~~
11 ~~and non-Federal entities, projects to enhance the~~
12 ~~health and resilience of the watershed, subject to the~~
13 ~~condition that if such a grant or cooperative agree-~~
14 ~~ment results in a direct benefit to a project bene-~~
15 ~~ficiary, the Secretary may determine that the costs~~
16 ~~are reimbursable.~~

17 **“SEC. 1214. AUTHORIZATION OF PHASE III OF YAKIMA**
18 **RIVER BASIN WATER ENHANCEMENT**
19 **PROJECT.**

20 ~~“(a) MANAGEMENT PLAN IMPLEMENTATION.—~~

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

24 ~~“(2) INITIAL DEVELOPMENT PHASE.—~~

1 “(A) IN GENERAL.—During the Initial De-
2 velopment Phase of the Management Plan, the
3 Secretary, in conjunction with the State of
4 Washington and in consultation with the Work
5 Group, shall—

6 “(i) complete the planning, design,
7 and construction or development of up-
8 stream and downstream fish passage facili-
9 ties at a Yakima Project reservoir, in addi-
10 tion to the Cle Elum Reservoir project de-
11 scribed in section 1206, pursuant to the
12 Hoover Power Plant Act of 1984 (43
13 U.S.C. 619 et seq.), to be identified by the
14 Work Group and consistent with the Man-
15 agement Plan, as set forth in the applica-
16 ble feasibility study or report;

17 “(ii) negotiate long-term agreements
18 with participating proratable irrigation en-
19 tities in the Yakima Basin for the non-
20 Federal financing, construction, operation,
21 and maintenance of—

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

1 (known as the ‘Kachess Drought Re-
2 lief Pumping Plant’), as set forth in
3 the applicable feasibility study or re-
4 port; and

5 “(II) a conveyance system to
6 allow transfer of water between
7 Keechelus Reservoir to Kachess Res-
8 ervoir for purposes of improving oper-
9 ational flexibility for the benefit of
10 both fish and irrigation (known as the
11 ‘K to K Pipeline’), as set forth in the
12 applicable feasibility study or report;
13 and

14 “(iii) participate in, provide funding
15 for, and accept non-Federal financing
16 for—

17 “(I) water conservation projects,
18 not subject to the provisions of the
19 Basin Conservation Program de-
20 scribed in section 1203, that are in-
21 tended to partially implement the
22 Management Plan by providing
23 85,000 acre-feet of conserved water to
24 improve tributary and mainstem
25 stream flow; and

1 “(H) aquifer storage and recov-
2 ery projects benefitting all beneficial
3 uses.

4 “(B) COMMENCEMENT DATE.—The Initial
5 Development Phase under this paragraph shall
6 commence on the date of enactment of this sec-
7 tion.

8 “(3) INTERMEDIATE AND FINAL PHASES.—

9 “(A) IN GENERAL.—During the Inter-
10 mediate and Final Development Phases of the
11 Management Plan, any project that is deter-
12 mined by Secretary, in consultation with the
13 State of Washington and Work Group, to be
14 appropriate to meet the objectives of the Man-
15 agement Plan shall be designed and con-
16 structed, subject to authorization and appro-
17 priation.

18 “(B) INTERMEDIATE PHASE.—It is the in-
19 tent of Congress that the Intermediate Develop-
20 ment Phase of the Management Plan shall com-
21 mence not later than 10 years after the date of
22 enactment of this section.

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

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

3 “(D) FEASIBILITY CONTINGENCY.—The
4 Intermediate and Final Development Phases of
5 the Management Plan shall be contingent on
6 feasibility, as determined by the Secretary, in
7 consultation with the Work Group, and in com-
8 pliance with applicable laws.

9 “(4) PROGRESS REPORT.—

10 “(A) IN GENERAL.—Not later than 5 years
11 after the date of enactment of this section, the
12 Secretary, in conjunction with the State of
13 Washington and in consultation with the Work
14 Group, shall submit to the Committee on En-
15 ergy and Natural Resources of the Senate and
16 the Committee on Natural Resources of the
17 House of Representatives a progress report that
18 shall serve as a supplement to the Management
19 Plan.

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

22 “(i) provide a review and reassess-
23 ment, if needed, of the objectives of the
24 Management Plan, as applied to all ele-
25 ments of the Management Plan;

1 “(ii) assess, through performance
2 metrics measured throughout implementa-
3 tion of the Management Plan, the degree
4 to which the Initial Phase addresses the
5 objectives and all elements of the Manage-
6 ment Plan;

7 “(iii) identify additional projects and
8 activities proposed for inclusion in any fu-
9 ture phase of the Management Plan to ad-
10 dress the objectives of the Management
11 Plan, as applied to all elements of the
12 Management Plan; and

13 “(iv) for water supply projects—

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

16 “(aa) water and costs asso-
17 ciated with each recommended
18 project would be allocated among
19 authorized uses; and

20 “(bb) those allocations
21 would be consistent with the ob-
22 jectives of the Management Plan;
23 and

24 “(II) establish a plan for solie-
25 iting and formalizing subscriptions

1 among individuals and entities for
 2 participation in any of the rec-
 3 ommended water supply projects that
 4 will establish the terms for participa-
 5 tion, including fiscal obligations asso-
 6 ciated with subscription.

7 “(b) OPERATION AND MAINTENANCE OF KACHESS
 8 DROUGHT RELIEF PUMPING PLANT AND K TO K PIPE-
 9 LINE.—

10 “(1) USE OF LAKE KACHESS STORED WATER.—

11 The additional stored water made available by the
 12 construction of facilities to access and deliver inae-
 13 tive storage in Lake Kachess under subsection
 14 (a)(2)(A)(ii)(I) shall—

15 “(A) be considered to be Yakima Project
 16 water;

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

20 “(C) be used exclusively by the Sec-
 21 retary—

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

1 that additional water available up to 70
2 percent of proratable entitlements to the
3 Kittitas Reclamation District, the Roza Ir-
4 rigation District, or other proratable irri-
5 gation entities participating in the con-
6 struction, operation, and maintenance
7 costs of the facilities under this title under
8 such terms and conditions to which the
9 districts may agree, subject to the condi-
10 tions that—

11 “(I) the Bureau of Indian Af-
12 fairs, the Wapato Irrigation Project,
13 and the Yakama Nation, on an elec-
14 tion to participate, may also obtain
15 water from Lake Kachess inactive
16 storage to enhance applicable existing
17 irrigation water supply in accordance
18 with such terms and conditions to
19 which the Bureau of Indian Affairs
20 and the Yakama Nation may agree;
21 and

22 “(II) the additional supply made
23 available under this subparagraph
24 shall be available to participating indi-
25 viduals and entities in proportion to

1 the proratable entitlements of the par-
2 ticipating individuals and entities; and
3 “(ii) to facilitate reservoir operations
4 in the reach of the Yakima River between
5 Keechelus Dam and Easton Dam for the
6 propagation of anadromous fish.

7 “(2) ELECTRICAL POWER ASSOCIATED WITH
8 KACHESS DROUGHT RELIEF PUMPING PLANT.—The
9 Administrator of the Bonneville Power Administra-
10 tion, pursuant to the Pacific Northwest Electric
11 Power Planning and Conservation Act (16 U.S.C.
12 839 et seq.), shall provide to the Secretary project
13 power to operate the Kachess Pumping Plant con-
14 structed under this title whenever inactive storage in
15 Lake Kachess is needed to provide drought relief for
16 irrigation. The Administrator shall provide the
17 power at the then-applicable lowest Bonneville Power
18 Administration rate for public body, cooperative, and
19 Federal agency customers firm obligations, which as
20 of the date of enactment of this section is the pri-
21 ority firm Tier 1 rate, and shall not include any irri-
22 gation discount. At all other times, power needed to
23 operate the Kachess Pumping Plant shall be ob-
24 tained by the Secretary from a local provider. The
25 cost of power for such pumping, station service

1 power, and all costs of transmitting power from the
 2 Federal Columbia River Power System to the Yak-
 3 ima Enhancement Project pumping facilities shall be
 4 borne by irrigation districts receiving the benefits of
 5 that water. The Commissioner of Reclamation shall
 6 be responsible for arranging transmission for deliv-
 7 eries of Federal power over the Bonneville system
 8 through applicable tariff and business practice pro-
 9 cesses of the Bonneville system and for arranging
 10 transmission for deliveries of power obtained from a
 11 local provider. The cost of the power shall be cred-
 12 ited to fishery restoration goals of the Columbia
 13 River fish and wildlife program.

14 “(e) DESIGN AND USE OF GROUNDWATER RE-
 15 CHARGE PROJECTS.—

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

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

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

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

3 ~~“(C) the development of the aquifer stor-~~
4 ~~age and recovery project will not impair fish or~~
5 ~~other aquatic life in any localized stream reach;~~
6 ~~and~~

7 ~~“(D) the aquifer storage and recovery~~
8 ~~project is approved by the Work Group.~~

9 ~~“(2) PROJECT TYPES.—The Secretary may de-~~
10 ~~sign, implement, and otherwise participate in~~
11 ~~groundwater recharge projects of any of the fol-~~
12 ~~lowing 3 types:~~

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

23 ~~“(B) Aquifer storage and recovery projects~~
24 ~~that are designed, within a given water year or~~
25 ~~over multiple water years—~~

1 “(i) to supplement or mitigate for mu-
2 nicipal uses;

3 “(ii) to supplement municipal supply
4 in a subsurface aquifer; or

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

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

21 “(i) the Bureau of Indian Affairs, the
22 Wapato Irrigation Project, and the
23 Yakama Nation, on an election to partici-
24 pate, may also obtain water from aquifer
25 storage to enhance applicable existing irri-

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

5 “~~(ii)~~ nothing in this subparagraph af-
 6 fects any existing contract, law (including
 7 regulations) relating to repayment costs, or
 8 water rights.

9 “~~(d)~~ FEDERAL COST-SHARE.—

10 “~~(1)~~ IN GENERAL.—The Federal cost-share of a
 11 project carried out under this section shall be deter-
 12 mined in accordance with the applicable laws (in-
 13 cluding regulations) and policies of the Bureau of
 14 Reclamation.

15 “~~(2)~~ INITIAL PHASE.—The Federal cost-share
 16 for the Initial Development Phase of the Manage-
 17 ment Plan under subsection ~~(a)(2)~~, including the re-
 18 imbursable share to be repaid by non-Federal project
 19 contractors, shall not exceed 50 percent of the total
 20 cost of the initial development phase.

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

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

4 “(e) SAVINGS AND CONTINGENCIES.—Nothing in this
 5 section shall—

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

9 “(2) affect any contract in existence on the date
 10 of enactment of the Yakima River Basin Water En-
 11 hancement Project Phase III Act of 2015 that was
 12 executed pursuant to the reclamation laws;

13 “(3) affect any contract or agreement between
 14 the Bureau of Indian Affairs and the Bureau of
 15 Reclamation; or

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

19 **“SEC. 1215. OPERATIONAL CONTROL OF WATER SUPPLIES.**

20 “The Secretary shall retain authority and discretion
 21 over the management of project supplies to obtain max-
 22 imum operational use and flexibility to meet all appro-
 23 priated and adjudicated water rights. That authority and
 24 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.”.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Yakima River Basin*
 5 *Water Enhancement Project Phase III Act of 2015”.*

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

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

10 (1) *by striking “Yakama Indian” each place it*
 11 *appears (except section 1204(g)) and inserting*
 12 *“Yakama”; and*

13 (2) *by striking “Superintendent” each place it*
 14 *appears and inserting “Manager”.*

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

17 (1) *by striking paragraph (1) and inserting the*
 18 *following:*

19 “(1) *to protect, mitigate, and enhance fish and*
 20 *wildlife and the recovery and maintenance of self-sus-*
 21 *taining harvestable populations of fish and other*
 22 *aquatic life, both anadromous and resident species,*
 23 *throughout their historic distribution range in the*
 24 *Yakima Basin through—*

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

5 “(B) improved instream flows and water
6 supplies;

7 “(C) improved water quality, watershed,
8 and ecosystem function;

9 “(D) protection, creation, and enhancement
10 of wetlands; and

11 “(E) other appropriate means of habitat
12 improvement;”;

13 (2) in paragraph (2), by inserting “, municipal,
14 industrial, and domestic water supply and use pur-
15 poses, especially during drought years, including re-
16 ducing the frequency and severity of water supply
17 shortages for pro-ratable irrigation entities” before the
18 semicolon at the end;

19 (3) by striking paragraph (4);

20 (4) by redesignating paragraph (3) as para-
21 graph (4);

22 (5) by inserting after paragraph (2) the fol-
23 lowing:

1 “(3) to authorize the Secretary to make water
2 available for purchase or lease for meeting municipal,
3 industrial, and domestic water supply purposes;”;

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

6 (7) by inserting after paragraph (4) (as so redesi-
7 gnated) the following:

8 “(5) to realize sufficient water savings from im-
9 plementing the Yakima River Basin Integrated Water
10 Resource Management Plan, so that not less than
11 85,000 acre feet of water savings are achieved by im-
12 plementing the first phase of the Integrated Plan pur-
13 suant to section 1213(a);”;

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

15 (A) by inserting “an increase in” before
16 “voluntary”; and

17 (B) by striking “and” at the end;

18 (9) by inserting after paragraph (6) (as so redesi-
19 gnated) the following:

20 “(7) to encourage an increase in the use of, and
21 reduce the barriers to, water transfers, leasing, mar-
22 kets, and other voluntary transactions among public
23 and private entities to enhance water management in
24 the Yakima River basin;”;

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

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

5 “(9) to improve the resilience of the ecosystems,
6 economies, and communities in the Basin as they face
7 drought, hydrologic changes, and other related
8 changes and variability in natural and human sys-
9 tems, for the benefit of both the people and the fish
10 and wildlife of the region; and

11 “(10) to authorize and implement the Yakima
12 River Basin Integrated Water Resource Management
13 Plan as Phase III of the Yakima River Basin Water
14 Enhancement Project, as a balanced and cost-effective
15 approach to maximize benefits to the communities
16 and environment in the Basin.”.

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

19 (1) by redesignating paragraphs (6), (7), (8),
20 (9), (10), (11), (12), (13), and (14) as paragraphs
21 (8), (10), (11), (13), (14), (15), (16), (18), and (19),
22 respectively;

23 (2) by inserting after paragraph (5) the fol-
24 lowing:

1 “(6) *DESIGNATED FEDERAL OFFICIAL.*—*The*
2 *term ‘designated Federal official’ means the Commis-*
3 *sioner of Reclamation (or a designee), acting pursu-*
4 *ant to the charter of the Conservation Advisory*
5 *Group.*

6 “(7) *INTEGRATED PLAN.*—*The terms ‘Integrated*
7 *Plan’ and ‘Yakima River Basin Integrated Water Re-*
8 *source Plan’ mean the plan and activities authorized*
9 *by the Yakima River Basin Enhancement Project*
10 *Phase III Act of 2015 and the amendments made by*
11 *that Act, to be carried out in cooperation with and*
12 *in addition to activities of the State of Washington*
13 *and Yakama Nation.’;*

14 (3) *by inserting after paragraph (8) (as redesign-*
15 *ated by paragraph (1)) the following:*

16 “(9) *MUNICIPAL, INDUSTRIAL, AND DOMESTIC*
17 *WATER SUPPLY AND USE.*—*The term ‘municipal, in-*
18 *dustrial, and domestic water supply and use’ means*
19 *the supply and use of water for—*

20 “(A) *domestic consumption (whether urban*
21 *or rural);*

22 “(B) *maintenance and protection of public*
23 *health and safety;*

1 “(C) *manufacture, fabrication, processing,*
 2 *assembly, or other production of a good or com-*
 3 *modity;*

4 “(D) *production of energy;*

5 “(E) *fish hatcheries; or*

6 “(F) *water conservation activities relating*
 7 *to a use described in subparagraphs (A) through*
 8 *(E).”;*

9 (4) *by inserting after paragraph (11) (as reded-*
 10 *esignated by paragraph (1)) the following:*

11 “(12) *PRORATABLE IRRIGATION ENTITY.—The*
 12 *term ‘proratable irrigation entity’ means a district,*
 13 *project, or State-recognized authority, board of con-*
 14 *trol, agency, or entity located in the Yakima River*
 15 *basin that—*

16 “(A) *manages and delivers irrigation water*
 17 *to farms in the basin; and*

18 “(B) *possesses, or the members of which pos-*
 19 *sess, water rights that are proratable during pe-*
 20 *riods of water shortage.”; and*

21 (5) *by inserting after paragraph (16) (as reded-*
 22 *esignated by paragraph (1)) the following:*

23 “(17) *YAKIMA ENHANCEMENT PROJECT; YAKIMA*
 24 *RIVER BASIN WATER ENHANCEMENT PROJECT.—The*
 25 *terms ‘Yakima Enhancement Project’ and ‘Yakima*

1 *River Basin Water Enhancement Project’ mean the*
 2 *Yakima River basin water enhancement project au-*
 3 *thorized by Congress pursuant to this Act and other*
 4 *Acts (including Public Law 96–162 (93 Stat. 1241),*
 5 *section 109 of Public Law 98–381 (16 U.S.C. 839b*
 6 *note; 98 Stat. 1340), Public Law 105–62 (111 Stat.*
 7 *1320), and Public Law 106–372 (114 Stat. 1425)) to*
 8 *promote water conservation, water supply, habitat,*
 9 *and stream enhancement improvements in the Yak-*
 10 *ima River basin.”.*

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

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

15 *(1) in subsection (a)—*

16 *(A) in paragraph (1)—*

17 *(i) in the second sentence, by striking*
 18 *“title” and inserting “section”; and*

19 *(ii) in the third sentence, by striking*
 20 *“within 5 years of the date of enactment of*
 21 *this Act”; and*

22 *(B) in paragraph (2), by striking “irriga-*
 23 *tion” and inserting “the number of irrigated*
 24 *acres”;*

25 *(2) in subsection (c)—*

1 (A) in paragraph (2)—

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

5 (ii) in subparagraph (E), by striking
6 the comma at the end and inserting “;
7 and”;

8 (iii) in subparagraph (F), by striking
9 “Department of Wildlife of the State of
10 Washington, and” and inserting “Depart-
11 ment of Fish and Wildlife of the State of
12 Washington.”; and

13 (iv) by striking subparagraph (G);

14 (B) in paragraph (3)—

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

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

20 (iii) in subparagraph (E), by striking
21 the period at the end and inserting “; and”;
22 and

23 (iv) by adding at the end the following:

24 “(F) provide recommendations to advance
25 the purposes and programs of the Yakima En-

1 *hancement Project, including the Integrated*
 2 *Plan.”; and*

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

5 “*(4) AUTHORITY OF DESIGNATED FEDERAL OFFI-*
 6 *CIAL.—The designated Federal official may—*

7 “*(A) arrange and provide logistical support*
 8 *for meetings of the Conservation Advisory Group;*

9 “*(B) use a facilitator to serve as a moder-*
 10 *ator for meetings of the Conservation Advisory*
 11 *Group or provide additional logistical support;*
 12 *and*

13 “*(C) grant any request for a facilitator by*
 14 *any member of the Conservation Advisory*
 15 *Group.”;*

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

18 “*(4) PAYMENT OF LOCAL SHARE BY STATE OR*
 19 *FEDERAL GOVERNMENT.—*

20 “*(A) IN GENERAL.—The State or the Fed-*
 21 *eral Government may fund not more than the*
 22 *17.5 percent local share of the costs of the Basin*
 23 *Conservation Program in exchange for the long-*
 24 *term use of conserved water, subject to the re-*
 25 *quirement that the funding by the Federal Gov-*

1 *ernment of the local share of the costs shall pro-*
 2 *vide a quantifiable public benefit in meeting*
 3 *Federal responsibilities in the Basin and the*
 4 *purposes of this title.*

5 *“(B) USE OF CONSERVED WATER.—The*
 6 *Yakima Project Manager may use water result-*
 7 *ing from conservation measures taken under this*
 8 *title, in addition to water that the Bureau of*
 9 *Reclamation may acquire from any willing sell-*
 10 *er through purchase, donation, or lease, for water*
 11 *management uses pursuant to this title.”;*

12 *(4) in subsection (e), by striking the first sen-*
 13 *tence and inserting the following: “To participate in*
 14 *the Basin Conservation Program, as described in sub-*
 15 *section (b), an entity shall submit to the Secretary a*
 16 *proposed water conservation plan.”;*

17 *(5) in subsection (i)(3)—*

18 *(A) by striking “purchase or lease” each*
 19 *place it appears and inserting “purchase, lease,*
 20 *or management”;* and

21 *(B) in the third sentence, by striking “made*
 22 *immediately upon availability” and all that fol-*
 23 *lows through “Committee” and inserting “con-*
 24 *tinued as needed to provide water to be used by*
 25 *the Yakima Project Manager as recommended by*

1 *the System Operations Advisory Committee and*
 2 *the Conservation Advisory Group”;* and

3 (6) *in subsection (j)(4), in the first sentence, by*
 4 *striking “initial acquisition” and all that follows*
 5 *through “flushing flows” and inserting “acquisition of*
 6 *water from willing sellers or lessors specifically to*
 7 *provide improved instream flows for anadromous and*
 8 *resident fish and other aquatic life, including pulse*
 9 *flows to facilitate outward migration of anadromous*
 10 *fish”.*

11 **SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS,**
 12 **AND AUTHORIZATIONS.**

13 (a) *YAKAMA NATION PROJECTS.—Section 1204 of*
 14 *Public Law 103–434 (108 Stat. 4555) is amended—*

15 (1) *in subsection (a)(2), in the first sentence, by*
 16 *striking “not more than \$23,000,000” and inserting*
 17 *“not more than \$100,000,000”;* and

18 (2) *in subsection (g)—*

19 (A) *by striking the subsection heading and*
 20 *inserting “REDESIGNATION OF YAKAMA INDIAN*
 21 *NATION TO YAKAMA NATION.—”;*

22 (B) *by striking paragraph (1) and inserting*
 23 *the following:*

24 “(1) *REDESIGNATION.—The Confederated Tribes*
 25 *and Bands of the Yakama Indian Nation shall be*

1 *known and designated as the ‘Confederated Tribes*
 2 *and Bands of the Yakama Nation’.*”; and

3 (C) *in paragraph (2), by striking “deemed*
 4 *to be a reference to the ‘Confederated Tribes and*
 5 *Bands of the Yakama Indian Nation’.*” and in-
 6 *serting “deemed to be a reference to the ‘Confed-*
 7 *erated Tribes and Bands of the Yakama Na-*
 8 *tion’.*”.

9 (b) *OPERATION OF YAKIMA BASIN PROJECTS.—Sec-*
 10 *tion 1205 of Public Law 103–434 (108 Stat. 4557) is*
 11 *amended—*

12 (1) *in subsection (a)—*

13 (A) *in paragraph (4)—*

14 (i) *in subparagraph (A)—*

15 (I) *in clause (i)—*

16 (aa) *by inserting “addi-*
 17 *tional” after “secure”;*

18 (bb) *by striking “flushing”*
 19 *and inserting “pulse”;* and

20 (cc) *by striking “uses” and*
 21 *inserting “uses, in addition to the*
 22 *quantity of water provided under*
 23 *the treaty between the Yakama*
 24 *Nation and the United States”;*

25 (II) *by striking clause (ii);*

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

3 (IV) in clause (ii) (as so redesign-
4 ated) by inserting “and water rights
5 mandated” after “goals”; and

6 (ii) in subparagraph (B)(i), in the
7 first sentence, by inserting “in proportion
8 to the funding received” after “Program”;

9 (2) in subsection (b) (as amended by section
10 2(a)(2)), in the second sentence, by striking “instream
11 flows for use by the Yakima Project Manager as flush-
12 ing flows or as otherwise” and inserting “fishery pur-
13 poses, as”; and

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

16 “(1) *IN GENERAL.*—Additional purposes of the
17 Yakima Project shall be any of the following:

18 “(A) *To recover and maintain self-sus-*
19 *taining harvestable populations of native fish,*
20 *both anadromous and resident species, through-*
21 *out their historic distribution range in the Yak-*
22 *ima Basin.*

23 “(B) *To protect, mitigate, and enhance*
24 *aquatic life and wildlife.*

25 “(C) *Recreation.*

1 “(D) *Municipal, industrial, and domestic*
2 *use.*”.

3 (c) *LAKE CLE ELUM AUTHORIZATION OF APPROPRIA-*
4 *TIONS.—Section 1206(a)(1) of Public Law 103–434 (108*
5 *Stat. 4560), is amended, in the matter preceding subpara-*
6 *graph (A), by striking “at September” and all that follows*
7 *through “to—” and inserting “not more than \$12,000,000*
8 *to—”.*

9 (d) *ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA*
10 *Basin Tributaries.—Section 1207 of Public Law 103–*
11 *434 (108 Stat. 4560) is amended—*

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

14 (2) *in subsection (a)—*

15 (A) *in the matter preceding paragraph (1),*
16 *by striking “supplies” and inserting “manage-*
17 *ment”;*

18 (B) *in paragraph (1), by inserting “and*
19 *water supply entities” after “owners”; and*

20 (C) *in paragraph (2)—*

21 (i) *in subparagraph (A), by inserting*
22 *“that choose not to participate or opt out of*
23 *tributary enhancement projects pursuant to*
24 *this section” after “water right owners”;*
25 *and*

1 (ii) in subparagraph (B), by inserting
2 “nonparticipating” before “tributary water
3 users”;

4 (3) in subsection (b)—

5 (A) in paragraph (1)—

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

9 “(1) IN GENERAL.—The Secretary, following con-
10 sultation with the State of Washington, tributary
11 water right owners, and the Yakama Nation, and on
12 agreement of appropriate water right owners, is au-
13 thorized to conduct studies to evaluate measures to
14 further Yakima Project purposes on tributaries to the
15 Yakima River. Enhancement programs that use meas-
16 ures authorized by this subsection may be investigated
17 and implemented by the Secretary in tributaries to
18 the Yakima River, including Taneum Creek, other
19 areas, or tributary basins that currently or could po-
20 tentially be provided supplemental or transfer water
21 by entities, such as the Kittitas Reclamation District
22 or the Yakima-Tieton Irrigation District, subject to
23 the condition that activities may commence on com-
24 pletion of applicable and required feasibility studies,
25 environmental reviews, and cost-benefit analyses that

1 *include favorable recommendations for further project*
2 *development, as appropriate. Measures to evaluate in-*
3 *clude—”;*

4 *(ii) by indenting subparagraphs (A)*
5 *through (F) appropriately;*

6 *(iii) in subparagraph (A), by inserting*
7 *before the semicolon at the end the fol-*
8 *lowing: “, including irrigation efficiency*
9 *improvements (in coordination with pro-*
10 *grams of the Department of Agriculture),*
11 *consolidation of diversions or administra-*
12 *tion, and diversion scheduling or coordina-*
13 *tion”;*

14 *(iv) by redesignating subparagraphs*
15 *(C) through (F) as subparagraphs (E)*
16 *through (H), respectively;*

17 *(v) by inserting after subparagraph*
18 *(B) the following:*

19 *“(C) improvements in irrigation system*
20 *management or delivery facilities within the*
21 *Yakima River basin when those improvements*
22 *allow for increased irrigation system conveyance*
23 *and corresponding reduction in diversion from*
24 *tributaries or flow enhancements to tributaries*

1 through direct flow supplementation or ground-
2 water recharge;

3 “(D) improvements of irrigation system
4 management or delivery facilities to reduce or
5 eliminate excessively high flows caused by the use
6 of natural streams for conveyance or irrigation
7 water or return water;”;

8 (vi) in subparagraph (E) (as redesign-
9 ated by clause (iv)), by striking “ground
10 water” and inserting “groundwater re-
11 charge and”;

12 (vii) in subparagraph (G) (as redesign-
13 ated by clause (iv)), by inserting “or
14 transfer” after “purchase”; and

15 (viii) in subparagraph (H) (as redesign-
16 ated by clause (iv)), by inserting “stream
17 processes and” before “stream habitats”;

18 (B) in paragraph (2)—

19 (i) in the matter preceding subpara-
20 graph (A), by striking “the Taneum Creek
21 study” and inserting “studies under this
22 subsection”;

23 (ii) in subparagraph (B)—

1 (I) by striking “and economic”
2 and inserting “, infrastructure, eco-
3 nomic, and land use”; and

4 (II) by striking “and” at the end;

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

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

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

11 (C) in paragraph (3), in the first sentence,
12 by inserting “of each tributary or group of tribu-
13 taries” after “study”;

14 (4) in subsection (c)—

15 (A) in the heading, by inserting “**AND**
16 **NONSURFACE STORAGE**” after “**NONSTOR-**
17 **AGE**”; and

18 (B) in the matter preceding paragraph (1),
19 by inserting “and nonsurface storage” after
20 “nonstorage”;

21 (5) by striking subsection (d);

22 (6) by redesignating subsection (e) as subsection
23 (d); and

24 (7) in paragraph (2) of subsection (d) (as so re-
25 designated)—

1 (A) *in the first sentence—*

2 (i) *by inserting “and implementation”*
 3 *after “investigation”;*

4 (ii) *by striking “other” before “Yakima*
 5 *River”;* *and*

6 (iii) *by inserting “and other water*
 7 *supply entities” after “owners”;* *and*

8 (B) *by striking the second sentence.*

9 (e) *CHANDLER PUMPING PLANT AND POWERPLANT-OP-*
 10 *ERATIONS AT PROSSER DIVERSION DAM.—Section 1208(d)*
 11 *of Public Law 103–434 (108 Stat. 4562; 114 Stat. 1425)*
 12 *is amended by inserting “negatively” before “affected”.*

13 (f) *INTERIM COMPREHENSIVE BASIN OPERATING*
 14 *PLAN.—Section 1210(c) of Public Law 103–434 (108 Stat.*
 15 *4564) is amended by striking “\$100,000” and inserting*
 16 *“\$200,000”.*

17 (g) *ENVIRONMENTAL COMPLIANCE.—Section 1211 of*
 18 *Public Law 103–434 (108 Stat. 4564) is amended by strik-*
 19 *ing “\$2,000,000” and inserting “\$5,000,000”.*

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

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

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

4 “(a) *INTEGRATED PLAN.*—

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

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

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

17 “(i) *complete the planning, design, and*
18 *construction or development of upstream*
19 *and downstream fish passage facilities, as*
20 *previously authorized by the Hoover Power*
21 *Plant Act of 1984 (43 U.S.C. 619 et seq.) at*
22 *Cle Elum Reservoir and another Yakima*
23 *Project reservoir identified by the Secretary*
24 *as consistent with the Integrated Plan, sub-*
25 *ject to the condition that, if the Yakima*
26 *Project reservoir identified by the Secretary*

1 *contains a hydropower project licensed by*
2 *the Federal Energy Regulatory Commission,*
3 *the Secretary shall cooperate with the Fed-*
4 *eral Energy Regulatory Commission in a*
5 *timely manner to ensure that actions taken*
6 *by the Secretary are consistent with the ap-*
7 *plicable hydropower project license;*

8 *“(ii) negotiate long-term agreements*
9 *with participating proratable irrigation en-*
10 *tities in the Yakima Basin and, acting*
11 *through the Bureau of Reclamation, coordi-*
12 *nate between Bureaus of the Department of*
13 *the Interior and with the heads of other*
14 *Federal agencies to negotiate agreements*
15 *concerning leases, easements, and rights-of-*
16 *way on Federal land, and other terms and*
17 *conditions determined to be necessary to*
18 *allow for the non-Federal financing, con-*
19 *struction, operation, and maintenance of—*

20 *“(I) new facilities needed to access*
21 *and deliver inactive storage in Lake*
22 *Kachess for the purpose of providing*
23 *drought relief for irrigation (known as*
24 *the ‘Kachess Drought Relief Pumping*
25 *Plant’); and*

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

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

10 “(I) water conservation projects,
11 not subject to the provisions of the
12 Basin Conservation Program described
13 in section 1203, that are intended to
14 partially implement the Integrated
15 Plan by providing 85,000 acre-feet of
16 conserved water to improve tributary
17 and mainstem stream flow; and

18 “(II) aquifer storage and recovery
19 projects;

20 “(iv) study, evaluate, and conduct fea-
21 sibility analyses and environmental reviews
22 of fish passage, water supply (including
23 groundwater and surface water storage),
24 conservation, habitat restoration projects,
25 and other alternatives identified as con-

1 *sistent with the purposes of this Act, for the*
2 *initial and future phases of the Integrated*
3 *Plan;*

4 *“(v) coordinate with and assist the*
5 *State of Washington in implementing a ro-*
6 *bust water market to enhance water man-*
7 *agement in the Yakima River basin, includ-*
8 *ing—*

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

16 *“(II) providing technical assist-*
17 *ance, including scientific data and*
18 *market information; and*

19 *“(III) negotiating agreements that*
20 *would facilitate voluntary water trans-*
21 *fers between entities, including as ap-*
22 *propriate, the use of federally managed*
23 *infrastructure; and*

24 *“(vi) enter into cooperative agreements*
25 *with, or, subject to a minimum non-Federal*

1 *cost-sharing requirement of 50 percent,*
2 *make grants to, the Yakama Nation, the*
3 *State of Washington, Yakima River basin*
4 *irrigation districts, water districts, con-*
5 *servation districts, other local governmental*
6 *entities, nonprofit organizations, and land*
7 *owners to carry out this title under such*
8 *terms and conditions as the Secretary may*
9 *require, including the following purposes:*

10 “(I) *Land and water transfers,*
11 *leases, and acquisitions from willing*
12 *participants, so long as the acquiring*
13 *entity shall hold title and be respon-*
14 *sible for any and all required oper-*
15 *ations, maintenance, and management*
16 *of that land and water.*

17 “(II) *To combine or relocate di-*
18 *version points, remove fish barriers, or*
19 *for other activities that increase flows*
20 *or improve habitat in the Yakima*
21 *River and its tributaries in further-*
22 *ance of this title.*

23 “(III) *To implement, in partner-*
24 *ship with Federal and non-Federal en-*

1 *tities, projects to enhance the health*
2 *and resilience of the watershed.*

3 “(B) *COMMENCEMENT DATE.*—*The Sec-*
4 *retary shall commence implementation of the ac-*
5 *tivities included under the initial development*
6 *phase pursuant to this paragraph—*

7 *“(i) on the date of enactment of this*
8 *section; and*

9 *“(ii) on completion of applicable feasi-*
10 *bility studies, environmental reviews, and*
11 *cost-benefit analyses that include favorable*
12 *recommendations for further project devel-*
13 *opment.*

14 “(3) *INTERMEDIATE AND FINAL PHASES.*—

15 “(A) *IN GENERAL.*—*The Secretary, in co-*
16 *ordination with the State of Washington and in*
17 *consultation with the Yakama Nation, shall de-*
18 *velop plans for intermediate and final develop-*
19 *ment phases of the Integrated Plan to achieve the*
20 *purposes of this Act, including conducting appli-*
21 *cable feasibility studies, environmental reviews,*
22 *and other relevant studies needed to develop the*
23 *plans.*

24 “(B) *INTERMEDIATE PHASE.*—*The Sec-*
25 *retary shall develop an intermediate development*

1 *phase to implement the Integrated Plan that,*
2 *subject to authorization and appropriation,*
3 *would commence not later than 10 years after*
4 *the date of enactment of this section.*

5 “(C) *FINAL PHASE.*—*The Secretary shall*
6 *develop a final development phase to implement*
7 *the Integrated Plan that, subject to authorization*
8 *and appropriation, would commence not later*
9 *than 20 years after the date of enactment of this*
10 *section.*

11 “(4) *CONTINGENCIES.*—*The implementation by*
12 *the Secretary of projects and activities identified for*
13 *implementation under the Integrated Plan shall be—*

14 “(A) *subject to authorization and appro-*
15 *priation;*

16 “(B) *contingent on the completion of appli-*
17 *cable feasibility studies, environmental reviews,*
18 *and cost-benefit analyses that include favorable*
19 *recommendations for further project development;*

20 “(C) *implemented on public review and a*
21 *determination by the Secretary that design, con-*
22 *struction, and operation of a proposed project or*
23 *activity is in the best interest of the public; and*

24 “(D) *in compliance with all applicable*
25 *laws, including the National Environmental Pol-*

1 *icy Act of 1969 (42 U.S.C. 4321 et seq.) and the*
2 *Endangered Species Act of 1973 (16 U.S.C. 1531*
3 *et seq).*

4 “(5) *PROGRESS REPORT.*—

5 “(A) *IN GENERAL.*—*Not later than 5 years*
6 *after the date of enactment of this section, the*
7 *Secretary, in conjunction with the State of*
8 *Washington and in consultation with the*
9 *Yakama Nation, shall submit to the Committee*
10 *on Energy and Natural Resources of the Senate*
11 *and the Committee on Natural Resources of the*
12 *House of Representatives a progress report on the*
13 *development and implementation of the Inte-*
14 *grated Plan.*

15 “(B) *REQUIREMENTS.*—*The progress report*
16 *under this paragraph shall—*

17 “(i) *provide a review and reassessment,*
18 *if needed, of the objectives of the Integrated*
19 *Plan, as applied to all elements of the Inte-*
20 *grated Plan;*

21 “(ii) *assess, through performance*
22 *metrics developed at the initiation of, and*
23 *measured throughout the implementation of,*
24 *the Integrated Plan, the degree to which the*
25 *implementation of the initial development*

1 *phase addresses the objectives and all ele-*
2 *ments of the Integrated Plan;*

3 “(iii) *identify the amount of Federal*
4 *funding and non-Federal contributions re-*
5 *ceived and expended during the period cov-*
6 *ered by the report;*

7 “(iv) *describe the pace of project devel-*
8 *opment during the period covered by the re-*
9 *port;*

10 “(v) *identify additional projects and*
11 *activities proposed for inclusion in any fu-*
12 *ture phase of the Integrated Plan to address*
13 *the objectives of the Integrated Plan, as ap-*
14 *plied to all elements of the Integrated Plan;*
15 *and*

16 “(vi) *for water supply projects—*

17 “(I) *provide a preliminary dis-*
18 *ussion of the means by which—*

19 “(aa) *water and costs associ-*
20 *ated with each recommended*
21 *project would be allocated among*
22 *authorized uses; and*

23 “(bb) *those allocations would*
24 *be consistent with the objectives of*
25 *the Integrated Plan; and*

1 “(II) establish a plan for solici-
2 ting and formalizing subscriptions
3 among individuals and entities for
4 participation in any of the rec-
5 ommended water supply projects that
6 will establish the terms for participa-
7 tion, including fiscal obligations asso-
8 ciated with subscription.

9 “(b) *FINANCING, CONSTRUCTION, OPERATION, AND*
10 *MAINTENANCE OF KACHESS DROUGHT RELIEF PUMPING*
11 *PLANT AND K TO K PIPELINE.*—

12 “(1) *AGREEMENTS.*—*Long-term agreements ne-*
13 *gotiated between the Secretary and participating pro-*
14 *ratale irrigation entities in the Yakima Basin for*
15 *the non-Federal financing, construction, operation,*
16 *and maintenance of the Drought Relief Pumping*
17 *Plant and K to K Pipeline shall include provisions*
18 *regarding—*

19 “(A) *responsibilities of the participating*
20 *proratale irrigation entities for the planning,*
21 *design, and construction of infrastructure in*
22 *consultation and coordination with the Sec-*
23 *retary;*

24 “(B) *property titles and responsibilities of*
25 *the participating proratale irrigation entities*

1 *for the maintenance of and liability for all infra-*
2 *structure constructed under this title;*

3 “(C) *operation and integration of the*
4 *projects by the Secretary in the operation of the*
5 *Yakima Project;*

6 “(D) *costs associated with the design, fi-*
7 *nancing, construction, operation, maintenance,*
8 *and mitigation of projects, with the costs of Fed-*
9 *eral oversight and review to be nonreimbursable*
10 *to the participating proratable irrigation entities*
11 *and the Yakima Project; and*

12 “(E) *responsibilities for the pumping and*
13 *operational costs necessary to provide the total*
14 *water supply available made inaccessible due to*
15 *drought pumping during the preceding 1 or*
16 *more calendar years, in the event that the*
17 *Kachess Reservoir fails to refill as a result of*
18 *pumping drought storage water during the pre-*
19 *ceding 1 or more calendar years, which shall re-*
20 *main the responsibility of the participating pro-*
21 *ratable irrigation entities.*

22 “(2) *USE OF KACHESS RESERVOIR STORED*
23 *WATER.—*

24 “(A) *IN GENERAL.—The additional stored*
25 *water made available by the construction of fa-*

1 *ilities to access and deliver inactive storage in*
2 *Kachess Reservoir under subsection*
3 *(a)(2)(A)(ii)(I) shall—*

4 *“(i) be considered to be Yakima Project*
5 *water;*

6 *“(ii) not be part of the total water sup-*
7 *ply available, as that term is defined in*
8 *various court rulings; and*

9 *“(iii) be used exclusively by the Sec-*
10 *retary—*

11 *“(I) to enhance the water supply*
12 *in years when the total water supply*
13 *available is not sufficient to provide 70*
14 *percent of proratable entitlements in*
15 *order to make that additional water*
16 *available up to 70 percent of prorat-*
17 *able entitlements to the Kittitas Rec-*
18 *lamation District, the Roza Irrigation*
19 *District, or other proratable irrigation*
20 *entities participating in the construc-*
21 *tion, operation, and maintenance costs*
22 *of the facilities under this title under*
23 *such terms and conditions to which the*
24 *districts may agree, subject to the con-*
25 *ditions that—*

1 “(aa) the Bureau of Indian
2 Affairs, the Wapato Irrigation
3 Project, and the Yakama Nation,
4 on an election to participate, may
5 also obtain water from Kachess
6 Reservoir inactive storage to en-
7 hance applicable existing irriga-
8 tion water supply in accordance
9 with such terms and conditions to
10 which the Bureau of Indian Af-
11 fairs and the Yakama Nation may
12 agree; and

13 “(bb) the additional supply
14 made available under this clause
15 shall be available to participating
16 individuals and entities in pro-
17 portion to the proratable entitle-
18 ments of the participating indi-
19 viduals and entities, or in such
20 other proportion as the partici-
21 pating entities may agree; and

22 “(II) to facilitate reservoir oper-
23 ations in the reach of the Yakima
24 River between Keechelus Dam and

1 *Easton Dam for the propagation of*
2 *anadromous fish.*

3 “(B) *EFFECT OF PARAGRAPH.*—*Nothing in*
4 *this paragraph affects (as in existence on the*
5 *date of enactment of this section) any contract,*
6 *law (including regulations) relating to repay-*
7 *ment costs, water right, or Yakama Nation trea-*
8 *ty right.*

9 “(3) *COMMENCEMENT.*—*The Secretary shall not*
10 *commence entering into agreements pursuant to sub-*
11 *section (a)(2)(A)(ii) or subsection (b)(1) or imple-*
12 *menting any activities pursuant to the agreements be-*
13 *fore the date on which—*

14 “(A) *all applicable and required feasibility*
15 *studies, environmental reviews, and cost-benefit*
16 *analyses have been completed and include favor-*
17 *able recommendations for further project develop-*
18 *ment, including an analysis of—*

19 “(i) *the impacts of the agreements and*
20 *activities conducted pursuant to subsection*
21 *(a)(2)(A)(ii) on adjacent communities, in-*
22 *cluding potential fire hazards, water access*
23 *for fire districts, community and home-*
24 *owner wells, future water levels based on*

1 *projected usage, recreational values, and*
 2 *property values; and*

3 “(ii) *specific options and measures for*
 4 *mitigating the impacts, as appropriate;*

5 “(B) *the Secretary has made the agreements*
 6 *and any applicable project designs, operations*
 7 *plans, and other documents available for public*
 8 *review and comment in the Federal Register for*
 9 *a period of not less than 60 days; and*

10 “(C) *the Secretary has made a determina-*
 11 *tion, consistent with applicable law, that the*
 12 *agreements and activities to which the agree-*
 13 *ments relate—*

14 “(i) *are in the public interest; and*

15 “(ii) *could be implemented without sig-*
 16 *nificant adverse impacts to the environ-*
 17 *ment.*

18 “(4) *ELECTRICAL POWER ASSOCIATED WITH*
 19 *KACHESS DROUGHT RELIEF PUMPING PLANT.—*

20 “(A) *IN GENERAL.—The Administrator of*
 21 *the Bonneville Power Administration, pursuant*
 22 *to the Pacific Northwest Electric Power Plan-*
 23 *ning and Conservation Act (16 U.S.C. 839 et*
 24 *seq.), shall provide to the Secretary project power*
 25 *to operate the Kachess Pumping Plant con-*

1 *structed under this title if inactive storage in*
2 *Kachess Reservoir is needed to provide drought*
3 *relief for irrigation, subject to the requirements*
4 *of subparagraphs (B) and (C).*

5 “(B) *DETERMINATION.*—*Power may be pro-*
6 *vided under subparagraph (A) only if—*

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

9 “(ii) *there are conditions that have led*
10 *to 70 percent or less water delivery to pro-*
11 *ratable irrigation districts, as determined*
12 *by the Secretary; and*

13 “(iii) *the Secretary determines that it*
14 *is appropriate to provide power under that*
15 *subparagraph.*

16 “(C) *PERIOD OF AVAILABILITY.*—*Power*
17 *under subparagraph (A) shall be provided until*
18 *the date on which the Secretary determines that*
19 *power should no longer be provided under that*
20 *subparagraph, but for not more than a 1-year*
21 *period or the period during which the Secretary*
22 *determines that drought mitigation measures are*
23 *necessary in the Yakima River basin.*

24 “(D) *RATE.*—*The Administrator of the*
25 *Bonneville Power Administration shall provide*

1 *power under subparagraph (A) at the then-ap-*
2 *licable lowest Bonneville Power Administration*
3 *rate for public body, cooperative, and Federal*
4 *agency customers firm obligations, which as of*
5 *the date of enactment of this section is the pri-*
6 *ority firm Tier 1 rate, and shall not include any*
7 *irrigation discount.*

8 “(E) *LOCAL PROVIDER.*—*During any pe-*
9 *riod in which power is not being provided under*
10 *subparagraph (A), the power needed to operate*
11 *the Kachess Pumping Plant shall be obtained by*
12 *the Secretary from a local provider.*

13 “(F) *COSTS.*—*The cost of power for such*
14 *pumping, station service power, and all costs of*
15 *transmitting power from the Federal Columbia*
16 *River Power System to the Yakima Enhance-*
17 *ment Project pumping facilities shall be borne by*
18 *irrigation districts receiving the benefits of that*
19 *water.*

20 “(G) *DUTIES OF COMMISSIONER.*—*The*
21 *Commissioner of Reclamation shall be respon-*
22 *sible for arranging transmission for deliveries of*
23 *Federal power over the Bonneville system*
24 *through applicable tariff and business practice*
25 *processes of the Bonneville system and for ar-*

1 *ranging transmission for deliveries of power ob-*
2 *tained from a local provider.*

3 “(c) *DESIGN AND USE OF GROUNDWATER RECHARGE*
4 *PROJECTS.—*

5 “(1) *IN GENERAL.—Any water supply that re-*
6 *sults from an aquifer storage and recovery project*
7 *shall not be considered to be a part of the total water*
8 *supply available if—*

9 “(A) *the water for the aquifer storage and*
10 *recovery project would not be available for use,*
11 *but instead for the development of the project;*

12 “(B) *the aquifer storage and recovery*
13 *project will not otherwise impair any water sup-*
14 *ply available for any individual or entity enti-*
15 *tled to use the total water supply available; and*

16 “(C) *the development of the aquifer storage*
17 *and recovery project will not impair fish or*
18 *other aquatic life in any localized stream reach.*

19 “(2) *PROJECT TYPES.—The Secretary may pro-*
20 *vide technical assistance for, and participate in, any*
21 *of the following 3 types of groundwater recharge*
22 *projects (including the incorporation of groundwater*
23 *recharge projects into Yakima Project operations, as*
24 *appropriate):*

1 “(A) *Aquifer recharge projects designed to*
2 *redistribute Yakima Project water within a*
3 *water year for the purposes of supplementing*
4 *stream flow during the irrigation season, par-*
5 *ticularly during storage control, subject to the*
6 *condition that if such a project is designed to*
7 *supplement a mainstem reach, the water supply*
8 *that results from the project shall be credited to*
9 *instream flow targets, in lieu of using the total*
10 *water supply available to meet those targets.*

11 “(B) *Aquifer storage and recovery projects*
12 *that are designed, within a given water year or*
13 *over multiple water years—*

14 “(i) *to supplement or mitigate for mu-*
15 *nicipal uses;*

16 “(ii) *to supplement municipal supply*
17 *in a subsurface aquifer; or*

18 “(iii) *to mitigate the effect of ground-*
19 *water use on instream flow or senior water*
20 *rights.*

21 “(C) *Aquifer storage and recovery projects*
22 *designed to supplement existing irrigation water*
23 *supply, or to store water in subsurface aquifers,*
24 *for use by the Kittitas Reclamation District, the*
25 *Roza Irrigation District, or any other proratable*

1 *irrigation entity participating in the repayment*
2 *of the construction, operation, and maintenance*
3 *costs of the facilities under this section during*
4 *years in which the total water supply available*
5 *is insufficient to provide to those proratable irri-*
6 *gation entities all water to which the entities are*
7 *entitled, subject to the conditions that—*

8 *“(i) the Bureau of Indian Affairs, the*
9 *Wapato Irrigation Project, and the Yakama*
10 *Nation, on an election to participate, may*
11 *also obtain water from aquifer storage to*
12 *enhance applicable existing irrigation water*
13 *supply in accordance with such terms and*
14 *conditions to which the Bureau of Indian*
15 *Affairs and the Yakama Nation may agree;*
16 *and*

17 *“(ii) nothing in this subparagraph af-*
18 *fects (as in existence on the date of enact-*
19 *ment of this section) any contract, law (in-*
20 *cluding regulations) relating to repayment*
21 *costs, water right, or Yakama Nation treaty*
22 *right.*

23 *“(d) FEDERAL COST-SHARE.—*

24 *“(1) IN GENERAL.—The Federal cost-share of a*
25 *project carried out under this section shall be deter-*

1 *mined in accordance with the applicable laws (in-*
2 *cluding regulations) and policies of the Bureau of*
3 *Reclamation.*

4 “(2) *INITIAL PHASE.*—*The Federal cost-share for*
5 *the initial development phase of the Integrated Plan*
6 *shall not exceed 50 percent of the total cost of the ini-*
7 *tial development phase.*

8 “(3) *STATE AND OTHER CONTRIBUTIONS.*—*The*
9 *Secretary may accept as part of the non-Federal cost-*
10 *share of a project carried out under this section, and*
11 *expend as if appropriated, any contribution (includ-*
12 *ing in-kind services) by the State of Washington or*
13 *any other individual or entity that the Secretary de-*
14 *termines will enhance the conduct and completion of*
15 *the project.*

16 “(4) *LIMITATION ON USE OF OTHER FEDERAL*
17 *FUNDS.*—*Except as otherwise provided in this title,*
18 *other Federal funds may not be used to provide the*
19 *non-Federal cost-share of a project carried out under*
20 *this section.*

21 “(e) *SAVINGS AND CONTINGENCIES.*—*Nothing in this*
22 *section shall—*

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

1 “(2) affect any contract in existence on the date
2 of enactment of the Yakima River Basin Water En-
3 hancement Project Phase III Act of 2015 that was ex-
4 ecuted pursuant to the reclamation laws;

5 “(3) affect any contract or agreement between the
6 Bureau of Indian Affairs and the Bureau of Reclama-
7 tion;

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

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

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

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

Calendar No. 332

114TH CONGRESS
1ST Session

S. 1694

[Report No. 114-187]

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.

DECEMBER 16, 2015

Reported with an amendment