

JULY 9, 2015

**RULES COMMITTEE PRINT 114-23**  
**TEXT OF H.R. 2898, WESTERN WATER AND**  
**AMERICAN FOOD SECURITY ACT OF 2015**

**[Showing the text of the bill as ordered reported by the  
Committee on Natural Resources.]**

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

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

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

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

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

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

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

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

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

Sec. 301. Definitions.  
Sec. 302. Operational flexibility in times of drought.

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

#### TITLE IV—CALFED STORAGE FEASIBILITY STUDIES

- Sec. 401. Studies.
- Sec. 402. Temperance Flat.
- Sec. 403. CALFED storage accountability.
- Sec. 404. Water storage project construction.

#### TITLE V—WATER RIGHTS PROTECTIONS

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

#### TITLE VI—MISCELLANEOUS

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

#### TITLE VII—WATER SUPPLY PERMITTING ACT

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

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

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Acceleration of studies.

- Sec. 804. Expedited completion of reports.
- Sec. 805. Project acceleration.
- Sec. 806. Annual report to Congress.

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

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

TITLE X—SAFETY OF DAMS

- Sec. 1001. Authorization of additional project benefits.

TITLE XI—WATER RIGHTS PROTECTION

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

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

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

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

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

14 (4) The lack of precipitation has been a signifi-  
15 cant contributing factor to the 6,091 fires experi-

1           enced in the State as of September 15, 2014, and  
2           which covered nearly 400,000 acres.

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

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

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

21          (8) The drought of 2013 through 2014 con-  
22          stitutes a serious emergency that poses immediate  
23          and severe risks to human life and safety and to the  
24          environment throughout the State.

1           (9) The serious emergency described in para-  
2 graph (4) requires—

3           (A) immediate and credible action that re-  
4 spects the complexity of the water system of the  
5 State and the importance of the water system  
6 to the entire State; and

7           (B) policies that do not pit stakeholders  
8 against one another, which history shows only  
9 leads to costly litigation that benefits no one  
10 and prevents any real solutions.

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

24           (A) For Central Valley Project South-of-  
25 Delta water service contractors, if it is assumed

1           that a water supply deficit is the difference in  
2           the amount of water available for allocation  
3           versus the maximum contract quantity, then the  
4           water supply deficits that have developed from  
5           1992 to 2014 as a result of legislative and reg-  
6           ulatory changes besides natural variations in  
7           hydrology during this timeframe range between  
8           720,000 and 1,100,000 acre-feet.

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

22          (11) Data of pumping activities at the Central  
23          Valley Project and State Water Project delta pumps  
24          identifies that, on average from Water Year 2009 to  
25          Water Year 2014, take of Delta smelt is 80 percent

1 less than allowable take levels under the biological  
2 opinion issued December 15, 2008.

3 (12) Data of field sampling activities of the  
4 Interagency Ecological Program located in the Sac-  
5 ramento-San Joaquin Estuary identifies that, on av-  
6 erage from 2005 to 2013, the program “takes”  
7 3,500 delta smelt during annual surveys with an au-  
8 thorized “take” level of 33,480 delta smelt annu-  
9 ally—according to the biological opinion issued De-  
10 cember 9, 1997.

11 (13) In 2015, better information exists than  
12 was known in 2008 concerning conditions and oper-  
13 ations that may or may not lead to high salvage  
14 events that jeopardize the fish populations, and what  
15 alternative management actions can be taken to  
16 avoid jeopardy.

17 (14) Alternative management strategies, remov-  
18 ing non-native species, enhancing habitat, moni-  
19 toring fish movement and location in real-time, and  
20 improving water quality in the Delta can contribute  
21 significantly to protecting and recovering these en-  
22 dangered fish species, and at potentially lower costs  
23 to water supplies.

24 (15) Resolution of fundamental policy questions  
25 concerning the extent to which application of the

1       Endangered Species Act of 1973 affects the oper-  
2       ation of the Central Valley Project and State Water  
3       Project is the responsibility of Congress.

4   **SEC. 3. DEFINITIONS.**

5       In this Act:

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

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

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

17          (4) LISTED SALMONID SPECIES.—The term  
18       “listed salmonid species” means natural origin  
19       steelhead, natural origin genetic spring run Chinook,  
20       and genetic winter run Chinook salmon including  
21       hatchery steelhead or salmon populations within the  
22       evolutionary significant unit (ESU) or distinct popu-  
23       lation segment (DPS).

24          (5) NEGATIVE IMPACT ON THE LONG-TERM  
25       SURVIVAL.—The term “negative impact on the long-



1 term survival” means to reduce appreciably the like-  
2 lihood of the survival of a listed species in the wild  
3 by reducing the reproduction, numbers, or distribu-  
4 tion of that species.

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

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

12 (A) the smelt biological opinion; and

13 (B) the salmonid biological opinion.

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

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

24 (10) STATE.—The term “State” means the  
25 State of California.

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

6 **SEC. 101. DEFINITIONS.**

7 In this title:

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

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

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

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

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

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

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

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

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

10 (3) updated scientific and commercial data; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (d) DELTA SMELT DISTRIBUTION STUDY.—

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

9 (C) the water temperature;

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

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

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

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

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

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

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

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

7 **SEC. 201. DEFINITIONS.**

8 In this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17           (d) EVALUATION OF OFFSETTING MEASURES.—

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



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

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

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

- 1           (2) through San Joaquin River inflow to export
- 2           restrictions on export pumping rates specified within
- 3           Action IV.2.1 as compared to the restrictions in the
- 4           April/May period imposed by the State Water Re-
- 5           sources Control Board decision D-1641, based on a
- 6           given rate of San Joaquin River inflow to the Delta
- 7           and holding other relevant factors constant;
- 8           (3) through physical habitat restoration im-
- 9           provements;
- 10          (4) through predation control programs;
- 11          (5) through the installation of temporary bar-
- 12          riers, the management of Cross Channel Gates oper-
- 13          ations, and other projects affecting flow in the
- 14          Delta;
- 15          (6) through salvaging fish that have been en-
- 16          trained near the entrance to Clifton Court Forebay;
- 17          (7) through any other management measures
- 18          that may provide equivalent or better protections for
- 19          listed species while maximizing export pumping rates
- 20          without causing a significant negative impact on the
- 21          long-term survival of a listed salmonid species; and
- 22          (8) through development and implementation of
- 23          conservation hatchery programs for salmon and
- 24          steelhead to aid in the recovery of listed salmon and
- 25          steelhead species.

1 (f) SURVIVAL ESTIMATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

12 (1) be scientifically based;

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

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

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

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

8           (c) CONDUCT.—

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

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

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

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

8 (d) FUNDING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **SEC. 301. DEFINITIONS.**

5 In this title:

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

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

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

18 (A) the Secretary of Agriculture;

19 (B) the Secretary of Commerce; and

20 (C) the Secretary of the Interior.

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



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

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

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

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

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

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

16                   (B) are designed so that formal consultations  
17                   under section 7 of the Endangered Species  
18                   Act of 1973 (16 U.S.C. 1536) are not necessary;  
19                   

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

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

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

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

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

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

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

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

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

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

3           (2) REQUEST FOR RESOLUTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (B) water quality; and

13 (C) water supply;

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

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



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

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

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

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

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

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

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

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

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

23                 (1) human health and safety; or

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



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

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

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

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

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

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

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

17 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

13 “(1) IN GENERAL.—In order to”; and

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

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

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

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

25 “(A) this Act;

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

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

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

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

8           and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SEC. 312. APPLICANTS.**

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

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

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

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

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

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

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

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

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

18 **SEC. 401. STUDIES.**

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

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



1           (2) complete the feasibility studies described in  
2           clauses (i)(II) and (ii)(I) of section 103(d)(1)(A) of  
3           Public Law 108–361 and submit such studies to the  
4           appropriate committees of the House of Representa-  
5           tives and the Senate not later than November 30,  
6           2016;

7           (3) complete the feasibility study described in  
8           section 103(f)(1)(A) of Public Law 108–361 (118  
9           Stat. 1694) and submit such study to the appro-  
10          prium Committees of the House of Representatives  
11          and the Senate not later than December 31, 2017;

12          (4) provide a progress report on the status of  
13          the feasibility studies referred to in paragraphs (1)  
14          through (3) to the appropriate committees of the  
15          House of Representatives and the Senate not later  
16          than 90 days after the date of the enactment of this  
17          Act and each 180 days thereafter until December  
18          31, 2017, as applicable. The report shall include  
19          timelines for study completion, draft environmental  
20          impact statements, final environmental impact state-  
21          ments, and Records of Decision;

22          (5) in conducting any feasibility study under  
23          this Act, the reclamation laws, the Central Valley  
24          Project Improvement Act (title XXXIV of Public  
25          Law 102–575; 106 Stat. 4706), the Fish and Wild-

1 life Coordination Act (16 U.S.C. 661 et seq.), the  
2 Endangered Species Act of 1973 (16 U.S.C. 1531 et  
3 seq.), and other applicable law, for the purposes of  
4 determining feasibility the Secretary shall document,  
5 delineate, and publish costs directly relating to the  
6 engineering and construction of a water storage  
7 project separately from the costs resulting from reg-  
8 ulatory compliance or the construction of auxiliary  
9 facilities necessary to achieve regulatory compliance;  
10 and

11 (6) communicate, coordinate and cooperate with  
12 public water agencies that contract with the United  
13 States for Central Valley Project water and that are  
14 expected to participate in the cost pools that will be  
15 created for the projects proposed in the feasibility  
16 studies under this section.

17 **SEC. 402. TEMPERANCE FLAT.**

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

19 (1) PROJECT.—The term “Project” means the  
20 Temperance Flat Reservoir Project on the Upper  
21 San Joaquin River.

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

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

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

7           (1) the Project; or

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

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

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

1 **SEC. 403. CALFED STORAGE ACCOUNTABILITY.**

2 If the Secretary of the Interior fails to provide the  
3 feasibility studies described in section 401 to the appro-  
4 priate committees of the House of Representatives and the  
5 Senate by the times prescribed, the Secretary shall notify  
6 each committee chair individually in person on the status  
7 of each project once a month until the feasibility study  
8 for that project is provided to Congress.

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

10 (a) **PARTNERSHIP AND AGREEMENTS.**—The Sec-  
11 retary of the Interior, acting through the Commissioner  
12 of the Bureau of Reclamation, may partner or enter into  
13 an agreement on the water storage projects identified in  
14 section 103(d)(1) of the Water Supply Reliability and En-  
15 vironmental Improvement Act (Public Law 108–361) (and  
16 Acts supplemental and amendatory to the Act) with local  
17 joint powers authorities formed pursuant to State law by  
18 irrigation districts and other local water districts and local  
19 governments within the applicable hydrologic region, to  
20 advance those projects.

21 (b) **AUTHORIZATION FOR PROJECT.**—If the Secretary  
22 determines a project described in section 402(a)(1) and  
23 (2) is feasible, the Secretary is authorized to carry out  
24 the project in a manner that is substantially in accordance  
25 with the recommended plan, and subject to the conditions

1 described in the feasibility study, provided that no Federal  
2 funding shall be used to construct the project.

3 **TITLE V—WATER RIGHTS**  
4 **PROTECTIONS**

5 **SEC. 501. OFFSET FOR STATE WATER PROJECT.**

6 (a) IMPLEMENTATION IMPACTS.—The Secretary of  
7 the Interior shall confer with the California Department  
8 of Fish and Wildlife in connection with the implementa-  
9 tion of this Act on potential impacts to any consistency  
10 determination for operations of the State Water Project  
11 issued pursuant to California Fish and Game Code section  
12 2080.1.

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

16 (1) revokes the consistency determinations pur-  
17 suant to California Fish and Game Code section  
18 2080.1 that are applicable to the State Water  
19 Project;

20 (2) amends or issues one or more new consist-  
21 ency determinations pursuant to California Fish and  
22 Game Code section 2080.1 in a manner that directly  
23 or indirectly results in reduced water supply to the  
24 State Water Project as compared with the water

1 supply available under the smelt biological opinion  
2 and the salmonid biological opinion; or

3 (3) requires take authorization under California  
4 Fish and Game Code section 2081 for operation of  
5 the State Water Project in a manner that directly or  
6 indirectly results in reduced water supply to the  
7 State Water Project as compared with the water  
8 supply available under the smelt biological opinion  
9 and the salmonid biological opinion, and as a con-  
10 sequence of the Department's action, Central Valley  
11 Project yield is greater than it would have been ab-  
12 sent the Department's actions, then that additional  
13 yield shall be made available to the State Water  
14 Project for delivery to State Water Project contrac-  
15 tors to offset losses resulting from the Department's  
16 action.

17 (c) NOTIFICATION RELATED TO ENVIRONMENTAL  
18 PROTECTIONS.—The Secretary of the Interior shall imme-  
19 diately notify the Director of the California Department  
20 of Fish and Wildlife in writing if the Secretary of the Inte-  
21 rior determines that implementation of the smelt biological  
22 opinion and the salmonid biological opinion consistent with  
23 this Act reduces environmental protections for any species  
24 covered by the opinions.

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

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

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

23 (c) ENDANGERED SPECIES ACT.—Nothing in this  
24 title alters the existing authorities provided to and obliga-  
25 tions placed upon the Federal Government under the En-

1 endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),  
2 as amended.

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

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

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

20 (1) result in the involuntary reduction of water  
21 supply or fiscal impacts to individuals or districts  
22 who receive water from either the State Water  
23 Project or the United States under water rights set-  
24 tlement contracts, exchange contracts, water service



1 contracts, repayment contracts, or water supply con-  
2 tracts; or

3 (2) cause redirected adverse water supply or fis-  
4 cal impacts to those within the Sacramento River  
5 watershed, the San Joaquin River watershed or the  
6 State Water Project service area.

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

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

17 (1) water service, repayment, settlement, pur-  
18 chase, or exchange contract with the United States,  
19 including the obligation to satisfy exchange contracts  
20 and settlement contracts prior to the allocation of  
21 any other Central Valley Project water; or

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

1 **SEC. 504. ALLOCATIONS FOR SACRAMENTO VALLEY CON-**  
2 **TRACTORS.**

3 (a) ALLOCATIONS.—

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

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

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

15 (C) Not less than 100 percent of their con-  
16 tract quantities in a “Below Normal” year that  
17 is preceded by an “Above Normal” or a “Wet”  
18 year.

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

23 (E) In all other years not identified herein,  
24 the allocation percentage for existing Central  
25 Valley Project agricultural water service con-  
26 tractors within the Sacramento River Water-

1           shed shall not be less than twice the allocation  
2           percentage to south-of-Delta Central Valley  
3           Project agricultural water service contractors,  
4           up to 100 percent; provided, that nothing here-  
5           in shall preclude an allocation to existing Cen-  
6           tral Valley Project agricultural water service  
7           contractors within the Sacramento River Water-  
8           shed that is greater than twice the allocation  
9           percentage to south-of-Delta Central Valley  
10          Project agricultural water service contractors.

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

13                 (A) the priority of individuals or entities  
14                 with Sacramento River water rights, including  
15                 those with Sacramento River Settlement Con-  
16                 tracts, that have priority to the diversion and  
17                 use of Sacramento River water over water  
18                 rights held by the United States for operations  
19                 of the Central Valley Project;

20                 (B) the United States obligation to make  
21                 a substitute supply of water available to the  
22                 San Joaquin River Exchange Contractors; and

23                 (C) the Secretary’s obligation to make  
24                 water available to managed wetlands pursuant

1 to section 3406(d) of the Central Valley Project  
2 Improvement Act (Public Law 102–575).

3 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL  
4 SUPPLIES.—Nothing in subsection (a) shall be deemed  
5 to—

6 (1) modify any provision of a water service con-  
7 tract that addresses municipal and industrial water  
8 shortage policies of the Secretary;

9 (2) affect or limit the authority of the Secretary  
10 to adopt or modify municipal and industrial water  
11 shortage policies;

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

15 (4) affect allocations to Central Valley Project  
16 municipal and industrial contractors pursuant to  
17 such policies.

18 Neither subsection (a) nor the Secretary’s implementation  
19 of subsection (a) shall constrain, govern or affect, directly,  
20 the operations of the Central Valley Project’s American  
21 River Division or any deliveries from that Division, its  
22 units or facilities.

23 (c) NO EFFECT ON ALLOCATIONS.—This section  
24 shall not—

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

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

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

14          (e) DEFINITIONS.—In this section:

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

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

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

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

7 **TITLE VI—MISCELLANEOUS**

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

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

15 (b) LONG-TERM CONTRACT.—

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

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

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

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

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

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

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

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

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

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

6 “(h) ADVISORY BOARD.—

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

12 “(2) MEMBERSHIP.—

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

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

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



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

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

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

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

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

20                  “(C) CHAIR.—The Secretary shall appoint  
21                  1 of the members described in subparagraph  
22                  (A) to serve as Chair of the Advisory Board.

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

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

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

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

10           “(5) VACANCIES.—

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

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

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

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

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

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

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

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

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

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

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

5           “(10) COOPERATION AND ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

9 (1) In subsection (b)—

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

11 “(C) If by March 15, 2021, and any year  
12 thereafter the quantity of Central Valley  
13 Project water forecasted to be made available to  
14 all water service or repayment contractors of  
15 the Central Valley Project is below 50 percent  
16 of the total quantity of water to be made avail-  
17 able under said contracts, the quantity of Cen-  
18 tral Valley Project yield dedicated and managed  
19 for that year under this paragraph shall be re-  
20 duced by 25 percent.”.

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

22 After the date of the enactment of this title, and re-  
23 gardless of the date of listing, the Secretaries of the Inte-  
24 rior and Commerce shall not distinguish between natural-  
25 spawned and hatchery-spawned or otherwise artificially

1 propagated strains of a species in making any determina-  
2 tion under the Endangered Species Act of 1973 (16  
3 U.S.C. 1531 et seq.) that relates to any anadromous or  
4 pelagic fish species that resides for all or a portion of its  
5 life in the Sacramento-San Joaquin Delta or rivers tribu-  
6 tary thereto.

7 **SEC. 606. TRANSFER THE NEW MELONES UNIT, CENTRAL**  
8 **VALLEY PROJECT TO INTERESTED PRO-**  
9 **VIDERS.**

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

12 (1) INTERESTED LOCAL WATER AND POWER  
13 PROVIDERS.—The term “interested local water and  
14 power providers” includes the Calaveras County  
15 Water District, Calaveras Public Power Agency,  
16 Central San Joaquin Water Conservation District,  
17 Oakdale Irrigation District, Stockton East Water  
18 District, South San Joaquin Irrigation District,  
19 Tuolumne Utilities District, Tuolumne Public Power  
20 Agency, and Union Public Utilities District.

21 (2) NEW MELONES UNIT, CENTRAL VALLEY  
22 PROJECT.—The term “New Melones Unit, Central  
23 Valley Project” means all Federal reclamation  
24 projects located within or diverting water from or to  
25 the watershed of the Stanislaus and San Joaquin

1 rivers and their tributaries as authorized by the Act  
2 of August 26, 1937 (50 Stat. 850), and all Acts  
3 amendatory or supplemental thereto, including the  
4 Act of October 23, 1962 (76 Stat. 1173).

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

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

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

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

23 (1) if an agreement is reached pursuant to ne-  
24 gotiations conducted under subsection (b), the terms  
25 of that agreement;



1           (2) of the status of formal discussions with in-  
2           terested local water and power providers for the  
3           transfer of ownership, control, and operation of the  
4           New Melones Unit, Central Valley Project to inter-  
5           ested local water and power providers;

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

11          (4) on analysis and review of studies, reports,  
12          discussions, hearing transcripts, negotiations, and  
13          other information about past and present formal dis-  
14          cussions that—

15                (A) have a serious impact on the progress  
16                of the formal discussions;

17                (B) explain or provide information about  
18                the issues that prevent progress or finalization  
19                of formal discussions; or

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

22          (5) of any actions the Secretary recommends  
23          that the United States should take to finalize an  
24          agreement for that transfer.

1 **SEC. 607. BASIN STUDIES.**

2 (a) AUTHORIZED STUDIES.—The Secretary of the In-  
3 terior is authorized and directed to expand opportunities  
4 and expedite completion of assessments under section  
5 9503(b) of the SECURE Water Act (42 U.S.C.  
6 10363(b)), with non-Federal partners, of individual sub-  
7 basins and watersheds within major Reclamation river ba-  
8 sins; and shall ensure timely decision and expedited imple-  
9 mentation of adaptation and mitigation strategies devel-  
10 oped through the special study process.

11 (b) FUNDING.—

12 (1) IN GENERAL.—The non-Federal partners  
13 shall be responsible for 100 percent of the cost of  
14 the special studies.

15 (2) CONTRIBUTED FUNDS.—The Secretary may  
16 accept and use contributions of funds from the non-  
17 Federal partners to carry out activities under the  
18 special studies.

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

20 The Secretary of the Interior, in the operation of the  
21 Trinity River Division of the Central Valley Project, shall  
22 not make releases from Lewiston Dam in excess of the  
23 volume for each water-year type required by the U.S. De-  
24 partment of the Interior Record of Decision, Trinity River  
25 Mainstem Fishery Restoration Final Environmental Im-

1 pact Statement/Environmental Impact Report dated De-  
2 cember 2000.

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

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

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

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

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

13 **SEC. 609. AMENDMENT TO PURPOSES.**

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

16 (1) in subsection (f), by striking the period at  
17 the end; and

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

19 “(g) to ensure that water dedicated to fish and wild-  
20 life purposes by this title is replaced and provided to Cen-  
21 tral Valley Project water contractors by December 31,  
22 2018, at the lowest cost reasonably achievable; and

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

1 **SEC. 610. AMENDMENT TO DEFINITION.**

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

4 (1) by amending subsection (a) to read as fol-  
5 lows:

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

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

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

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

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

20 **TITLE VII—WATER SUPPLY**  
21 **PERMITTING ACT**

22 **SEC. 701. SHORT TITLE.**

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

25 **SEC. 702. DEFINITIONS.**

26 In this title:

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

3           (2) BUREAU.—The term “Bureau” means the  
4 Bureau of Reclamation.

5           (3) QUALIFYING PROJECTS.—The term “quali-  
6 fying projects” means new surface water storage  
7 projects in the States covered under the Act of June  
8 17, 1902 (32 Stat. 388, chapter 1093), and Acts  
9 supplemental to and amendatory of that Act (43  
10 U.S.C. 371 et seq.) constructed on lands adminis-  
11 tered by the Department of the Interior or the De-  
12 partment of Agriculture, exclusive of any easement,  
13 right-of-way, lease, or any private holding.

14           (4) COOPERATING AGENCIES.—The term “co-  
15 operating agency” means a Federal agency with ju-  
16 risdiction over a review, analysis, opinion, statement,  
17 permit, license, or other approval or decision re-  
18 quired for a qualifying project under applicable Fed-  
19 eral laws and regulations, or a State agency subject  
20 to section 703(c).

21 **SEC. 703. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**  
22 **ATING AGENCIES.**

23           (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-  
24 reau of Reclamation is established as the lead agency for  
25 purposes of coordinating all reviews, analyses, opinions,

1 statements, permits, licenses, or other approvals or deci-  
2 sions required under Federal law to construct qualifying  
3 projects.

4 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-  
5 OPERATING AGENCIES.—The Commissioner of the Bureau  
6 shall—

7 (1) identify, as early as practicable upon receipt  
8 of an application for a qualifying project, any Fed-  
9 eral agency that may have jurisdiction over a review,  
10 analysis, opinion, statement, permit, license, ap-  
11 proval, or decision required for a qualifying project  
12 under applicable Federal laws and regulations; and

13 (2) notify any such agency, within a reasonable  
14 timeframe, that the agency has been designated as  
15 a cooperating agency in regards to the qualifying  
16 project unless that agency responds to the Bureau in  
17 writing, within a timeframe set forth by the Bureau,  
18 notifying the Bureau that the agency—

19 (A) has no jurisdiction or authority with  
20 respect to the qualifying project;

21 (B) has no expertise or information rel-  
22 evant to the qualifying project or any review,  
23 analysis, opinion, statement, permit, license, or  
24 other approval or decision associated therewith;

25 or

1 (C) does not intend to submit comments  
2 on the qualifying project or conduct any review  
3 of such a project or make any decision with re-  
4 spect to such project in a manner other than in  
5 cooperation with the Bureau.

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

9 (1) to participate as a cooperating agency; and  
10 (2) to make subject to the processes of this title  
11 all State agencies that—

12 (A) have jurisdiction over the qualifying  
13 project;

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

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

20 **SEC. 704. BUREAU RESPONSIBILITIES.**

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

23 (1) serve as the point of contact for applicants,  
24 State agencies, Indian tribes, and others regarding  
25 proposed qualifying projects;

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

5           (3) coordinate all Federal agency reviews nec-  
6           essary for project development and construction of  
7           qualifying projects.

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

10           (1) PRE-APPLICATION COORDINATION.—Notify  
11           cooperating agencies of proposed qualifying projects  
12           not later than 30 days after receipt of a proposal  
13           and facilitate a preapplication meeting for prospec-  
14           tive applicants, relevant Federal and State agencies,  
15           and Indian tribes to—

16                   (A) explain applicable processes, data re-  
17                   quirements, and applicant submissions nec-  
18                   essary to complete the required Federal agency  
19                   reviews within the timeframe established; and

20                   (B) establish the schedule for the quali-  
21                   fying project.

22           (2) CONSULTATION WITH COOPERATING AGEN-  
23           CIES.—Consult with the cooperating agencies  
24           throughout the Federal agency review process, iden-



1       tify and obtain relevant data in a timely manner,  
2       and set necessary deadlines for cooperating agencies.

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

7           (A) the responsibilities of cooperating  
8       agencies under applicable laws and regulations;

9           (B) the resources available to the cooper-  
10      ating agencies and the non-Federal qualifying  
11      project sponsor, as applicable;

12          (C) the overall size and complexity of the  
13      qualifying project;

14          (D) the overall schedule for and cost of the  
15      qualifying project; and

16          (E) the sensitivity of the natural and his-  
17      toric resources that may be affected by the  
18      qualifying project.

19          (4) ENVIRONMENTAL COMPLIANCE.—Prepare a  
20      unified environmental review document for each  
21      qualifying project application, incorporating a single  
22      environmental record on which all cooperating agen-  
23      cies with authority to issue approvals for a given  
24      qualifying project shall base project approval deci-  
25      sions. Help ensure that cooperating agencies make

1 necessary decisions, within their respective authori-  
2 ties, regarding Federal approvals in accordance with  
3 the following timelines:

4 (A) Not later than one year after accept-  
5 ance of a completed project application when an  
6 environmental assessment and finding of no sig-  
7 nificant impact is determined to be the appro-  
8 priate level of review under the National Envi-  
9 ronmental Policy Act of 1969 (42 U.S.C. 4321  
10 et seq.).

11 (B) Not later than one year and 30 days  
12 after the close of the public comment period for  
13 a draft environmental impact statement under  
14 the National Environmental Policy Act of 1969  
15 (42 U.S.C. 4321 et seq.), when an environ-  
16 mental impact statement is required under the  
17 same.

18 (5) CONSOLIDATED ADMINISTRATIVE  
19 RECORD.—Maintain a consolidated administrative  
20 record of the information assembled and used by the  
21 cooperating agencies as the basis for agency deci-  
22 sions.

23 (6) PROJECT DATA RECORDS.—To the extent  
24 practicable and consistent with Federal law, ensure  
25 that all project data is submitted and maintained in

1 generally accessible electronic format, compile, and  
2 where authorized under existing law, make available  
3 such project data to cooperating agencies, the quali-  
4 fying project applicant, and to the public.

5 (7) **PROJECT MANAGER.**—Appoint a project  
6 manager for each qualifying project. The project  
7 manager shall have authority to oversee the project  
8 and to facilitate the issuance of the relevant final  
9 authorizing documents, and shall be responsible for  
10 ensuring fulfillment of all Bureau responsibilities set  
11 forth in this section and all cooperating agency re-  
12 sponsibilities under section 705.

13 **SEC. 705. COOPERATING AGENCY RESPONSIBILITIES.**

14 (a) **ADHERENCE TO BUREAU SCHEDULE.**—Upon no-  
15 tification of an application for a qualifying project, all co-  
16 operating agencies shall submit to the Bureau a timeframe  
17 under which the cooperating agency reasonably considers  
18 it will be able to complete its authorizing responsibilities.  
19 The Bureau shall use the timeframe submitted under this  
20 subsection to establish the project schedule under section  
21 704, and the cooperating agencies shall adhere to the  
22 project schedule established by the Bureau.

23 (b) **ENVIRONMENTAL RECORD.**—Cooperating agen-  
24 cies shall submit to the Bureau all environmental review  
25 material produced or compiled in the course of carrying

1 out activities required under Federal law consistent with  
2 the project schedule established by the Bureau.

3 (c) DATA SUBMISSION.—To the extent practicable  
4 and consistent with Federal law, the cooperating agencies  
5 shall submit all relevant project data to the Bureau in a  
6 generally accessible electronic format subject to the project  
7 schedule set forth by the Bureau.

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

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

14 (b) EFFECT ON PERMITTING.—

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

20 (2) EVALUATION OF PERMITS.—In carrying out  
21 this section, the Secretary shall ensure that the eval-  
22 uation of permits carried out using funds accepted  
23 under this section shall—

24 (A) be reviewed by the Regional Director  
25 of the Bureau, or the Regional Director's des-

1           ignee, of the region in which the qualifying  
2           project or activity is located; and

3           (B) use the same procedures for decisions  
4           that would otherwise be required for the evalua-  
5           tion of permits for similar projects or activities  
6           not carried out using funds authorized under  
7           this section.

8           (3) IMPARTIAL DECISIONMAKING.—In carrying  
9           out this section, the Secretary and the cooperating  
10          agencies receiving funds under this section for quali-  
11          fying projects shall ensure that the use of the funds  
12          accepted under this section for such projects shall  
13          not—

14                 (A) impact impartial decisionmaking with  
15                 respect to the issuance of permits, either sub-  
16                 stantively or procedurally; or

17                 (B) diminish, modify, or otherwise affect  
18                 the statutory or regulatory authorities of such  
19                 agencies.

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

24          (d) PUBLIC AVAILABILITY.—The Secretary shall en-  
25          sure that all final permit decisions carried out using funds

1 authorized under this section are made available to the  
2 public, including on the Internet.

3 **TITLE VIII—BUREAU OF REC-**  
4 **LAMATION PROJECT STREAM-**  
5 **LINING**

6 **SEC. 801. SHORT TITLE.**

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

9 **SEC. 802. DEFINITIONS.**

10 In this title:

11 (1) ENVIRONMENTAL IMPACT STATEMENT.—

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

17 (2) ENVIRONMENTAL REVIEW PROCESS.—

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

1           (B) INCLUSIONS.—The term “environ-  
2           mental review process” includes the process for  
3           and completion of any environmental permit,  
4           approval, review, or study required for a project  
5           study under any Federal law other than the  
6           National Environmental Policy Act of 1969 (42  
7           U.S.C. 4321 et seq.).

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

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

17          (5) PROJECT.—The term “project” means a  
18          surface water project, a project under the purview of  
19          title XVI of Public Law 102–575, or a rural water  
20          supply project investigated under Public Law 109–  
21          451 to be carried out, funded or operated in whole  
22          or in part by the Secretary pursuant to the Act of  
23          June 17, 1902 (32 Stat. 388, chapter 1093), and  
24          Acts supplemental to and amendatory of that Act  
25          (43 U.S.C. 371 et seq.).

1           (6) PROJECT SPONSOR.—The term “project  
2 sponsor” means a State, regional, or local authority  
3 or instrumentality or other qualifying entity, such as  
4 a water conservation district, irrigation district,  
5 water conservancy district, joint powers authority,  
6 mutual water company, canal company, rural water  
7 district or association, or any other entity that has  
8 the capacity to contract with the United States  
9 under Federal reclamation law.

10           (7) PROJECT STUDY.—The term “project  
11 study” means a feasibility study for a project carried  
12 out pursuant to the Act of June 17, 1902 (32 Stat.  
13 388, chapter 1093), and Acts supplemental to and  
14 amendatory of that Act (43 U.S.C. 371 et seq.).

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

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



1 **SEC. 803. ACCELERATION OF STUDIES.**

2 (a) IN GENERAL.—To the extent practicable, a  
3 project study initiated by the Secretary, after the date of  
4 enactment of this Act, under the Reclamation Act of 1902  
5 (32 Stat. 388), and all Acts amendatory thereof or supple-  
6 mentary thereto, shall—

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

10 (2) have a maximum Federal cost of  
11 \$3,000,000; and

12 (3) ensure that personnel from the local project  
13 area, region, and headquarters levels of the Bureau  
14 of Reclamation concurrently conduct the review re-  
15 quired under this section.

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

21 (1) prepare an updated project study schedule  
22 and cost estimate;

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

25 (3) provide written notice to the Committee on  
26 Natural Resources of the House of Representatives

1 and the Committee on Energy and Natural Re-  
2 sources of the Senate as to the reasons the require-  
3 ments of subsection (a) are not attainable.

4 (c) EXCEPTION.—

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

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

15 (A) the type, size, location, scope, and  
16 overall cost of the project;

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

19 (C) whether the project will require signifi-  
20 cant action by other Federal, State, or local  
21 agencies;

22 (D) whether there is significant public dis-  
23 pute as to the nature or effects of the project;  
24 and

1           (E) whether there is significant public dis-  
2           pute as to the economic or environmental costs  
3           or benefits of the project.

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

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

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

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

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

4                   (A) have jurisdiction over the project;

5                   (B) be required by law to conduct or issue  
6           a review, analysis, opinion, or statement for the  
7           project study; or

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

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

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

21                   (1) the status of the implementation of the  
22          planning process under this section, including the  
23          number of participating projects;

24                   (2) a review of project delivery schedules, in-  
25          cluding a description of any delays on those studies

1 initiated prior to the date of the enactment of this  
2 Act; and

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

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

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

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

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

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

24 The Secretary shall—

1           (1) expedite the completion of any ongoing  
2 project study initiated before the date of enactment  
3 of this Act; and

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

10 **SEC. 805. PROJECT ACCELERATION.**

11       (a) APPLICABILITY.—

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

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

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

1 (C) any project study for the development  
2 of a non-federally owned and operated surface  
3 water storage project for which the Secretary  
4 determines there is a demonstrable Federal in-  
5 terest and the project—

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

9 (ii) will create additional water sup-  
10 plies that support Bureau of Reclamation  
11 water projects; or

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

15 (2) FLEXIBILITY.—Any authority granted  
16 under this section may be exercised, and any re-  
17 quirement established under this section may be sat-  
18 isfied, for the conduct of an environmental review  
19 process for a project study, a class of project stud-  
20 ies, or a program of project studies.

21 (3) LIST OF PROJECT STUDIES.—

22 (A) IN GENERAL.—The Secretary shall an-  
23 nually prepare, and make publicly available, a  
24 list of all project studies that the Secretary has  
25 determined—

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

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

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

11 (b) PROJECT REVIEW PROCESS.—

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

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



1           (3) **TIMING.**—The coordinated environmental  
2 review process under this subsection shall be com-  
3 pleted not later than the date on which the Sec-  
4 retary, in consultation and concurrence with the  
5 agencies identified under section 805(d), establishes  
6 with respect to the project study.

7           (c) **LEAD AGENCIES.**—

8           (1) **JOINT LEAD AGENCIES.**—

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

17           (B) **PROJECT SPONSOR AS JOINT LEAD**  
18 **AGENCY.**—A project sponsor that is a State or  
19 local governmental entity may—

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

1 (ii) prepare any environmental review  
2 process document under the National En-  
3 vironmental Policy Act of 1969 (42 U.S.C.  
4 4321 et seq.) required in support of any  
5 action or approval by the Secretary if—

6 (I) the Secretary provides guid-  
7 ance in the preparation process and  
8 independently evaluates that docu-  
9 ment;

10 (II) the project sponsor complies  
11 with all requirements applicable to the  
12 Secretary under—

13 (aa) the National Environ-  
14 mental Policy Act of 1969 (42  
15 U.S.C. 4321 et seq.);

16 (bb) any regulation imple-  
17 menting that Act; and

18 (cc) any other applicable  
19 Federal law; and

20 (III) the Secretary approves and  
21 adopts the document before the Sec-  
22 retary takes any subsequent action or  
23 makes any approval based on that  
24 document, regardless of whether the

1                   action or approval of the Secretary re-  
2                   sults in Federal funding.

3           (2) DUTIES.—The Secretary shall ensure  
4   that—

5                   (A) the project sponsor complies with all  
6                   design and mitigation commitments made joint-  
7                   ly by the Secretary and the project sponsor in  
8                   any environmental document prepared by the  
9                   project sponsor in accordance with this sub-  
10                  section; and

11                  (B) any environmental document prepared  
12                  by the project sponsor is appropriately supple-  
13                  mented to address any changes to the project  
14                  the Secretary determines are necessary.

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

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

1 (B) parts 1500 through 1508 of title 40,  
2 Code of Federal Regulations (or successor regu-  
3 lations).

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

8 (A) to take such actions as are necessary  
9 and proper and within the authority of the Fed-  
10 eral lead agency to facilitate the expeditious  
11 resolution of the environmental review process  
12 for the project study; and

13 (B) to prepare or ensure that any required  
14 environmental impact statement or other envi-  
15 ronmental review document for a project study  
16 required to be completed under the National  
17 Environmental Policy Act of 1969 (42 U.S.C.  
18 4321 et seq.) is completed in accordance with  
19 this section and applicable Federal law.

20 (d) PARTICIPATING AND COOPERATING AGENCIES.—

21 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-  
22 CIES.—With respect to carrying out the environ-  
23 mental review process for a project study, the Sec-  
24 retary shall identify, as early as practicable in the  
25 environmental review process, all Federal, State, and

1 local government agencies and Indian tribes that  
2 may—

3 (A) have jurisdiction over the project;

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

7 (C) be required to make a determination  
8 on issuing a permit, license, or other approval  
9 or decision for the project study.

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

16 (A) have jurisdiction over the project;

17 (B) are required to conduct or issue a re-  
18 view, analysis, opinion, or statement for the  
19 project study; or

20 (C) are required to make a determination  
21 on issuing a permit, license, or other approval  
22 or decision for the project study.

23 (3) INVITATION.—

24 (A) IN GENERAL.—The Federal lead agen-  
25 cy shall invite, as early as practicable in the en-

1            vironmental review process, any agency identi-  
2            fied under paragraph (1) to become a partici-  
3            pating or cooperating agency, as applicable, in  
4            the environmental review process for the project  
5            study.

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

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

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

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

3 (ii) has no expertise or information rel-  
4 evant to the project; or

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

7 (B) does not intend to submit comments  
8 on the project.

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

12 (7) EFFECT OF DESIGNATION.—Designation as  
13 a participating or cooperating agency under this  
14 subsection shall not imply that the participating or  
15 cooperating agency—

16 (A) supports a proposed project; or

17 (B) has any jurisdiction over, or special ex-  
18 pertise with respect to evaluation of, the  
19 project.

20 (8) CONCURRENT REVIEWS.—Each partici-  
21 pating or cooperating agency shall—

22 (A) carry out the obligations of that agen-  
23 cy under other applicable law concurrently and  
24 in conjunction with the required environmental  
25 review process, unless doing so would prevent

1 the participating or cooperating agency from  
2 conducting needed analysis or otherwise car-  
3 rying out those obligations; and

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

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

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

24 (g) PROGRAMMATIC COMPLIANCE.—



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

5                   (A) eliminates repetitive discussions of the  
6           same issues;

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

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

14                  (D) complies with—

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

17                          (ii) all other applicable laws.

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

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

1 (B) emphasize the importance of collabora-  
2 tion among relevant Federal, State, and local  
3 governmental agencies, and Indian tribes in un-  
4 dertaking programmatic reviews, especially with  
5 respect to including reviews with a broad geo-  
6 graphical scope;

7 (C) ensure that the programmatic re-  
8 views—

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

17 (ii) use accurate and timely informa-  
18 tion in the environmental review process,  
19 including—

20 (I) criteria for determining the  
21 general duration of the usefulness of  
22 the review; and

23 (II) the timeline for updating any  
24 out-of-date review;

25 (iii) describe—

1 (I) the relationship between pro-  
2 grammatic analysis and future tiered  
3 analysis; and

4 (II) the role of the public in the  
5 creation of future tiered analysis; and

6 (iv) are available to other relevant  
7 Federal, State, and local governmental  
8 agencies, Indian tribes, and the public;

9 (D) allow not fewer than 60 days of public  
10 notice and comment on any proposed guidance;  
11 and

12 (E) address any comments received under  
13 subparagraph (D).

14 (h) COORDINATED REVIEWS.—

15 (1) COORDINATION PLAN.—

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

25 (B) SCHEDULE.—

1 (i) IN GENERAL.—As soon as prac-  
2 ticable but not later than 45 days after the  
3 close of the public comment period on a  
4 draft environmental impact statement, the  
5 Federal lead agency, after consultation  
6 with and the concurrence of each partici-  
7 pating and cooperating agency and the  
8 project sponsor or joint lead agency, as ap-  
9 plicable, shall establish, as part of the co-  
10 ordination plan established in subpara-  
11 graph (A), a schedule for completion of the  
12 environmental review process for the  
13 project study.

14 (ii) FACTORS FOR CONSIDERATION.—  
15 In establishing a schedule, the Secretary  
16 shall consider factors such as—

17 (I) the responsibilities of partici-  
18 pating and cooperating agencies under  
19 applicable laws;

20 (II) the resources available to the  
21 project sponsor, joint lead agency, and  
22 other relevant Federal and State  
23 agencies, as applicable;

24 (III) the overall size and com-  
25 plexity of the project;

1 (IV) the overall schedule for and  
2 cost of the project; and

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

6 (iii) MODIFICATIONS.—The Secretary  
7 may—

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

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

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

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

23 (II) made available to the public.

24 (2) COMMENT DEADLINES.—The Federal lead  
25 agency shall establish the following deadlines for

1 comment during the environmental review process  
2 for a project study:

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

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

16 (ii) the deadline is extended by the  
17 Federal lead agency for good cause.

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

1 (i) a different deadline is established  
2 by agreement of the Federal lead agency,  
3 the project sponsor, or joint lead agency,  
4 as applicable, and all participating and co-  
5 operating agencies; or

6 (ii) the deadline is extended by the  
7 Federal lead agency for good cause.

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

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

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

1           eral agency that remain outstanding as of the  
2           date of the additional notice.

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

8           (5) TRANSPARENCY REPORTING.—

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

22          (B) PROJECT STUDY TRANSPARENCY.—  
23          Consistent with the requirements established  
24          under subparagraph (A), the Secretary shall  
25          make publicly available the status and progress



1           of any Federal, State, or local decision, action,  
2           or approval required under applicable laws for  
3           each project study for which this section is ap-  
4           plicable.

5           (i) ISSUE IDENTIFICATION AND RESOLUTION.—

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

13          (2) FEDERAL LEAD AGENCY RESPONSIBIL-  
14          ITIES.—

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

23           (B) DATA SOURCES.—The information  
24           under subparagraph (A) may be based on exist-

1           ing data sources, including geographic informa-  
2           tion systems mapping.

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

13          (4) ACCELERATED ISSUE RESOLUTION AND  
14          ELEVATION.—

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

22                        (i) delay completion of the environ-  
23                        mental review process; or

1 (ii) result in denial of any approval re-  
2 quired for the project study under applica-  
3 ble laws.

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

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

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

1           (E) CONVENTION BY SECRETARY.—The  
2           Secretary may convene an issue resolution  
3           meeting under this paragraph at any time, at  
4           the discretion of the Secretary, regardless of  
5           whether a meeting is requested under subpara-  
6           graph (A).

7           (5) FINANCIAL PENALTY PROVISIONS.—

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

13          (B) FAILURE TO DECIDE.—

14                 (i) IN GENERAL.—

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

1           able to support the office of the head  
2           of the Federal jurisdictional agency  
3           shall be reduced by an amount of  
4           funding equal to the amount specified  
5           in item (aa) or (bb) of subclause (II),  
6           and those funds shall be made avail-  
7           able to the division of the Federal ju-  
8           risdictional agency charged with ren-  
9           dering the decision by not later than  
10          1 day after the applicable date under  
11          clause (ii), and once each week there-  
12          after until a final decision is rendered,  
13          subject to subparagraph (C).

14                   (II) AMOUNT TO BE TRANS-  
15                   FERRED.—The amount referred to in  
16                   subclause (I) is—

17                           (aa) \$20,000 for any project  
18                           study requiring the preparation  
19                           of an environmental assessment  
20                           or environmental impact state-  
21                           ment; or

22                           (bb) \$10,000 for any project  
23                           study requiring any type of re-  
24                           view under the National Environ-  
25                           mental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) other than  
2 an environmental assessment or  
3 environmental impact statement.

4 (ii) DESCRIPTION OF DATE.—The  
5 date referred to in clause (i) is the later  
6 of—

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

11 (II) the date that is 180 days  
12 after the date on which the Federal  
13 lead agency issues a decision on the  
14 project under the National Environ-  
15 mental Policy Act of 1969 (42 U.S.C.  
16 4321 et seq.).

17 (C) LIMITATIONS.—

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

24 (ii) FAILURE TO DECIDE.—The total  
25 amount transferred in a fiscal year as a re-

1           sult of a failure by an agency to make a  
2           decision by an applicable deadline shall not  
3           exceed an amount equal to 5 percent of the  
4           funds made available for the applicable  
5           agency office for that fiscal year.

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

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

1           tives and the Senate written notification that  
2           includes a description of—

- 3                   (i) the decision;
- 4                   (ii) the project study involved;
- 5                   (iii) the amount of each transfer  
6                   under subparagraph (B) in that fiscal year  
7                   relating to the decision;

8                   (iv) the total amount of all transfers  
9                   under subparagraph (B) in that fiscal year  
10                   relating to the decision; and

11                   (v) the total amount of all transfers of  
12                   the agency under subparagraph (B) in that  
13                   fiscal year.

14           (E) NO FAULT OF AGENCY.—

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

22                           (I) the agency has not received  
23                           necessary information or approvals  
24                           from another entity in a manner that  
25                           affects the ability of the agency to



1 meet any requirements under Federal,  
2 State, or local law;

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

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

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

24 (I) conduct a financial audit to  
25 review the notice; and

1 (II) not later than 90 days after  
2 the date on which the review described  
3 in subclause (I) is completed, submit  
4 to the Committee on Natural Re-  
5 sources of the House of Representa-  
6 tives and the Committee on Energy  
7 and Natural Resources of the Senate  
8 the results of the audit conducted  
9 under subclause (I).

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

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

20 (j) MEMORANDUM OF AGREEMENTS FOR EARLY CO-  
21 ORDINATION.—

22 (1) SENSE OF CONGRESS.—It is the sense of  
23 Congress that—

24 (A) the Secretary and other Federal agen-  
25 cies with relevant jurisdiction in the environ-

1           mental review process should cooperate with  
2           each other, State and local agencies, and Indian  
3           tribes on environmental review and Bureau of  
4           Reclamation project delivery activities at the  
5           earliest practicable time to avoid delays and du-  
6           plication of effort later in the process, prevent  
7           potential conflicts, and ensure that planning  
8           and project development decisions reflect envi-  
9           ronmental values; and

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

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

1 (3) MEMORANDUM OF AGENCY AGREEMENT.—

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

12 (k) LIMITATIONS.—Nothing in this section preempts  
13 or interferes with—

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

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

18 (B) any other Federal environmental law;

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

22 (3) any requirement for seeking, considering, or  
23 responding to public comment; or

24 (4) any power, jurisdiction, responsibility, duty,  
25 or authority that a Federal, State, or local govern-

1       mental agency, Indian tribe, or project sponsor has  
2       with respect to carrying out a project or any other  
3       provision of law applicable to projects.

4       (1) TIMING OF CLAIMS.—

5             (1) TIMING.—

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

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

23             (2) NEW INFORMATION.—

24                     (A) IN GENERAL.—The Secretary shall  
25                     consider new information received after the

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

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

17 (m) CATEGORICAL EXCLUSIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

15           (A) project delivery;

16           (B) compliance with environmental laws;

17           and

18           (C) the environmental impact of projects.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

23 (b) REQUESTS FOR PROPOSALS.—

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

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

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

13 (3) NOTIFICATION.—On the date of publication  
14 of each notice required by this subsection, the Sec-  
15 retary shall—

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

18 (B) provide written notification of the pub-  
19 lication to the Committee on Natural Resources  
20 of the House of Representatives and the Com-  
21 mittee on Energy and Natural Resources of the  
22 Senate.

23 (c) CONTENTS.—

24 (1) PROJECT REPORTS, PROPOSED PROJECT  
25 STUDIES, AND PROPOSED MODIFICATIONS.—

1 (A) CRITERIA FOR INCLUSION IN RE-  
2 PORT.—The Secretary shall include in the an-  
3 nual report only those project reports, proposed  
4 project studies, and proposed modifications to  
5 authorized projects and project studies that—

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

8 (ii) require specific congressional au-  
9 thorization, including by an Act of Con-  
10 gress;

11 (iii) have not been congressionally au-  
12 thorized;

13 (iv) have not been included in any  
14 previous annual report; and

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

17 (B) DESCRIPTION OF BENEFITS.—

18 (i) DESCRIPTION.—The Secretary  
19 shall describe in the annual report, to the  
20 extent applicable and practicable, for each  
21 proposed project study and proposed modi-  
22 fication to an authorized water resources  
23 development project or project study in-  
24 cluded in the annual report, the benefits,

1 as described in clause (ii), of each such  
2 study or proposed modification.

3 (ii) BENEFITS.—The benefits (or ex-  
4 pected benefits, in the case of a proposed  
5 project study) described in this clause are  
6 benefits to—

7 (I) the protection of human life  
8 and property;

9 (II) improvement to domestic ir-  
10 rrigated water and power supplies;

11 (III) the national economy;

12 (IV) the environment; or

13 (V) the national security inter-  
14 ests of the United States.

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

18 (i) for each proposed project study in-  
19 cluded in the annual report, the non-Fed-  
20 eral interest that submitted the proposed  
21 project study pursuant to subsection (b);  
22 and

23 (ii) for each proposed project study  
24 and proposed modification to a project or  
25 project study included in the annual re-

1 port, whether the non-Federal interest has  
2 demonstrated—

3 (I) that local support exists for  
4 the proposed project study or pro-  
5 posed modification to an authorized  
6 project or project study (including the  
7 surface water storage development  
8 project that is the subject of the pro-  
9 posed feasibility study or the proposed  
10 modification to an authorized project  
11 study); and

12 (II) the financial ability to pro-  
13 vide the required non-Federal cost  
14 share.

15 (2) **TRANSPARENCY.**—The Secretary shall in-  
16 clude in the annual report, for each project report,  
17 proposed project study, and proposed modification to  
18 a project or project study included under paragraph  
19 (1)(A)—

20 (A) the name of the associated non-Fed-  
21 eral interest, including the name of any non-  
22 Federal interest that has contributed, or is ex-  
23 pected to contribute, a non-Federal share of the  
24 cost of—

25 (i) the project report;

- 1 (ii) the proposed project study;
- 2 (iii) the authorized project study for
- 3 which the modification is proposed; or
- 4 (iv) construction of—
- 5 (I) the project that is the subject
- 6 of—
- 7 (aa) the water report;
- 8 (bb) the proposed project
- 9 study; or
- 10 (cc) the authorized project
- 11 study for which a modification is
- 12 proposed; or
- 13 (II) the proposed modification to
- 14 a project;
- 15 (B) a letter or statement of support for the
- 16 water report, proposed project study, or pro-
- 17 posed modification to a project or project study
- 18 from each associated non-Federal interest;
- 19 (C) the purpose of the feasibility report,
- 20 proposed feasibility study, or proposed modi-
- 21 fication to a project or project study;
- 22 (D) an estimate, to the extent practicable,
- 23 of the Federal, non-Federal, and total costs
- 24 of—

1 (i) the proposed modification to an  
2 authorized project study; and

3 (ii) construction of—

4 (I) the project that is the subject  
5 of—

6 (aa) the project report; or

7 (bb) the authorized project  
8 study for which a modification is  
9 proposed, with respect to the  
10 change in costs resulting from  
11 such modification; or

12 (II) the proposed modification to  
13 an authorized project; and

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

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

17 (I) the project report; or

18 (II) the authorized project study  
19 for which a modification is proposed,  
20 with respect to the benefits of such  
21 modification; or

22 (ii) the proposed modification to an  
23 authorized project.

24 (3) CERTIFICATION.—The Secretary shall in-  
25 clude in the annual report a certification stating



1 that each feasibility report, proposed feasibility  
2 study, and proposed modification to a project or  
3 project study included in the annual report meets  
4 the criteria established in paragraph (1)(A).

5 (4) APPENDIX.—The Secretary shall include in  
6 the annual report an appendix listing the proposals  
7 submitted under subsection (b) that were not in-  
8 cluded in the annual report under paragraph (1)(A)  
9 and a description of why the Secretary determined  
10 that those proposals did not meet the criteria for in-  
11 clusion under such paragraph.

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

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

18 (2) include in such notice a requirement that  
19 non-Federal interests submit to the Secretary any  
20 proposals described in subsection (b)(1) by not later  
21 than 120 days after the date of publication of such  
22 notice in the Federal Register in order for such pro-  
23 posals to be considered for inclusion in the first an-  
24 nual report developed by the Secretary under this  
25 section.

1 (e) PUBLICATION.—Upon submission of an annual  
2 report to Congress, the Secretary shall make the annual  
3 report publicly available, including through publication on  
4 the Internet.

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

9 **TITLE IX—ACCELERATED REV-**  
10 **ENUE, REPAYMENT, AND SUR-**  
11 **FACE WATER STORAGE EN-**  
12 **HANCEMENT**

13 **SEC. 901. SHORT TITLE.**

14 This title may be cited as the “Accelerated Revenue,  
15 Repayment, and Surface Water Storage Enhancement  
16 Act”.

17 **SEC. 902. PREPAYMENT OF CERTAIN REPAYMENT CON-**  
18 **TRACTS BETWEEN THE UNITED STATES AND**  
19 **CONTRACTORS OF FEDERALLY DEVELOPED**  
20 **WATER SUPPLIES.**

21 (a) CONVERSION AND PREPAYMENT OF CON-  
22 TRACTS.—

23 (1) CONVERSION.—Upon request of the con-  
24 tractor, the Secretary of the Interior shall convert  
25 any water service contract in effect on the date of

1 enactment of this Act and between the United  
2 States and a water users' association to allow for  
3 prepayment of the repayment contract pursuant to  
4 paragraph (2) under mutually agreeable terms and  
5 conditions. The manner of conversion under this  
6 paragraph shall be as follows:

7 (A) Water service contracts that were en-  
8 tered into under section 9(e) of the Act of Au-  
9 gust 4, 1939 (53 Stat. 1196), to be converted  
10 under this section shall be converted to repay-  
11 ment contracts under section 9(d) of that Act  
12 (53 Stat. 1195).

13 (B) Water service contracts that were en-  
14 tered under subsection (c)(2) of section 9 of the  
15 Act of August 4, 1939 (53 Stat. 1194), to be  
16 converted under this section shall be converted  
17 to a contract under subsection (c)(1) of section  
18 9 of that Act (53 Stat. 1195).

19 (2) PREPAYMENT.—All repayment contracts  
20 under section 9(d) of that Act (53 Stat. 1195) in ef-  
21 fect on the date of enactment of this Act at the re-  
22 quest of the contractor, and all contracts converted  
23 pursuant to paragraph (1)(A) shall—

24 (A) provide for the repayment, either in  
25 lump sum or by accelerated prepayment, of the

1 remaining construction costs identified in water  
2 project specific irrigation rate repayment sched-  
3 ules, as adjusted to reflect payment not re-  
4 flected in such schedule, and properly assign-  
5 able for ultimate return by the contractor, or if  
6 made in approximately equal installments, no  
7 later than 3 years after the effective date of the  
8 repayment contract, such amount to be dis-  
9 counted by  $\frac{1}{2}$  the Treasury rate. An estimate  
10 of the remaining construction costs, as ad-  
11 justed, shall be provided by the Secretary to the  
12 contractor no later than 90 days following re-  
13 ceipt of request of the contractor;

14 (B) require that construction costs or  
15 other capitalized costs incurred after the effec-  
16 tive date of the contract or not reflected in the  
17 rate schedule referenced in subparagraph (A),  
18 and properly assignable to such contractor shall  
19 be repaid in not more than 5 years after notifi-  
20 cation of the allocation if such amount is a re-  
21 sult of a collective annual allocation of capital  
22 costs to the contractors exercising contract con-  
23 versation under this subsection of less than  
24 \$5,000,000. If such amount is \$5,000,000 or

1 greater, such cost shall be repaid as provided by  
2 applicable reclamation law;

3 (C) provide that power revenues will not be  
4 available to aid in repayment of construction  
5 costs allocated to irrigation under the contract;  
6 and

7 (D) continue so long as the contractor  
8 pays applicable charges, consistent with section  
9 9(d) of the Act of August 4, 1939 (53 Stat.  
10 1195), and applicable law.

11 (3) CONTRACT REQUIREMENTS.—The following  
12 shall apply with regard to all repayment contracts  
13 under subsection (c)(1) of section 9 of that Act (53  
14 Stat. 1195) in effect on the date of enactment of  
15 this Act at the request of the contractor, and all  
16 contracts converted pursuant to paragraph (1)(B):

17 (A) Provide for the repayment in lump  
18 sum of the remaining construction costs identi-  
19 fied in water project specific municipal and in-  
20 dustrial rate repayment schedules, as adjusted  
21 to reflect payments not reflected in such sched-  
22 ule, and properly assignable for ultimate return  
23 by the contractor. An estimate of the remaining  
24 construction costs, as adjusted, shall be pro-  
25 vided by the Secretary to the contractor no

1 later than 90 days after receipt of request of  
2 contractor.

3 (B) The contract shall require that con-  
4 struction costs or other capitalized costs in-  
5 curred after the effective date of the contract or  
6 not reflected in the rate schedule referenced in  
7 subparagraph (A), and properly assignable to  
8 such contractor, shall be repaid in not more  
9 than 5 years after notification of the allocation  
10 if such amount is a result of a collective annual  
11 allocation of capital costs to the contractors ex-  
12 ercising contract conversation under this sub-  
13 section of less than \$5,000,000. If such amount  
14 is \$5,000,000 or greater, such cost shall be re-  
15 paid as provided by applicable reclamation law.

16 (C) Continue so long as the contractor  
17 pays applicable charges, consistent with section  
18 9(e)(1) of the Act of August 4, 1939 (53 Stat.  
19 1195), and applicable law.

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

22 (A) not be adjusted on the basis of the  
23 type of prepayment financing used by the water  
24 users' association;

1 (B) conform to any other agreements, such  
2 as applicable settlement agreements and new  
3 constructed appurtenant facilities; and

4 (C) not modify other water service, repay-  
5 ment, exchange and transfer contractual rights  
6 between the water users' association, and the  
7 Bureau of Reclamation, or any rights, obliga-  
8 tions, or relationships of the water users' asso-  
9 ciation and their landowners as provided under  
10 State law.

11 (b) ACCOUNTING.—The amounts paid pursuant to  
12 subsection (a) shall be subject to adjustment following a  
13 final cost allocation by the Secretary of the Interior. In  
14 the event that the final cost allocation indicates that the  
15 costs properly assignable to the contractor are greater  
16 than what has been paid by the contractor, the contractor  
17 shall be obligated to pay the remaining allocated costs.  
18 The term of such additional repayment contract shall be  
19 not less than one year and not more than 10 years, how-  
20 ever, mutually agreeable provisions regarding the rate of  
21 repayment of such amount may be developed by the par-  
22 ties. In the event that the final cost allocation indicates  
23 that the costs properly assignable to the contractor are  
24 less than what the contractor has paid, the Secretary shall

1 credit such overpayment as an offset against any out-  
2 standing or future obligation of the contractor.

3 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

4 (1) EFFECT OF EXISTING LAW.—Upon a con-  
5 tractor's compliance with and discharge of the obli-  
6 gation of repayment of the construction costs pursu-  
7 ant to a contract entered into pursuant to subsection  
8 (a)(2)(A), subsections (a) and (b) of section 213 of  
9 the Reclamation Reform Act of 1982 (96 Stat.  
10 1269) shall apply to affected lands.

11 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-  
12 ligation of a contractor to repay construction costs  
13 or other capitalized costs described in subsection  
14 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-  
15 tractor's status as having repaid all of the construc-  
16 tion costs assignable to the contractor or the appli-  
17 cability of subsections (a) and (b) of section 213 of  
18 the Reclamation Reform Act of 1982 (96 Stat.  
19 1269) once the amount required to be paid by the  
20 contractor under the repayment contract entered  
21 into pursuant to subsection (a)(2)(A) have been  
22 paid.

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



1           (1) the repayment obligation of any water serv-  
2           ice or repayment contractor receiving water from the  
3           same water project, or shift any costs that would  
4           otherwise have been properly assignable to the water  
5           users' association identified in subsections (a)(1),  
6           (a)(2), and (a)(3) absent this section, including op-  
7           eration and maintenance costs, construction costs, or  
8           other capitalized costs incurred after the date of the  
9           enactment of this Act, or to other contractors; and

10           (2) specific requirements for the disposition of  
11           amounts received as repayments by the Secretary  
12           under the Act of June 17, 1902 (32 Stat. 388, chap-  
13           ter 1093), and Acts supplemental to and amend-  
14           atory of that Act (43 U.S.C. 371 et seq.).

15           (e) SURFACE WATER STORAGE ENHANCEMENT PRO-  
16           GRAM.—

17           (1) IN GENERAL.—Except as provided in sub-  
18           section (d)(2), three years following the date of en-  
19           actment of this Act, 50 percent of receipts generated  
20           from prepayment of contracts under this section be-  
21           yond amounts necessary to cover the amount of re-  
22           ceipts forgone from scheduled payments under cur-  
23           rent law for the 10-year period following the date of  
24           enactment of this Act shall be directed to the Rec-

1       lamation Surface Water Storage Account under  
2       paragraph (2).

3           (2) SURFACE STORAGE ACCOUNT.—The Sec-  
4       retary shall allocate amounts collected under para-  
5       graph (1) into the “Reclamation Surface Storage  
6       Account” to fund the construction of surface water  
7       storage. The Secretary may also enter into coopera-  
8       tive agreements with water users’ associations for  
9       the construction of surface water storage and  
10      amounts within the Surface Storage Account may be  
11      used to fund such construction. Surface water stor-  
12      age projects that are otherwise not federally author-  
13      ized shall not be considered Federal facilities as a  
14      result of any amounts allocated from the Surface  
15      Storage Account for part or all of such facilities.

16           (3) REPAYMENT.—Amounts used for surface  
17      water storage construction from the Account shall be  
18      fully reimbursed to the Account consistent with the  
19      requirements under Federal reclamation law (the  
20      law (the Act of June 17, 1902 (32 Stat. 388, chap-  
21      ter 1093))), and Acts supplemental to and amend-  
22      atory of that Act (43 U.S.C. 371 et seq.) except that  
23      all funds reimbursed shall be deposited in the Ac-  
24      count established under paragraph (2).

1           (4) AVAILABILITY OF AMOUNTS.—Amounts de-  
2           posited in the Account under this subsection shall—

3                   (A) be made available in accordance with  
4                   this section, subject to appropriation; and

5                   (B) be in addition to amounts appropriated  
6                   for such purposes under any other provision of  
7                   law.

8           (5) PURPOSES OF SURFACE WATER STORAGE.—  
9           Construction of surface water storage under this sec-  
10          tion shall be made for the following purposes:

11                   (A) Increased municipal and industrial  
12                   water supply.

13                   (B) Agricultural floodwater, erosion, and  
14                   sedimentation reduction.

15                   (C) Agricultural drainage improvements.

16                   (D) Agricultural irrigation.

17                   (E) Increased recreation opportunities.

18                   (F) Reduced adverse impacts to fish and  
19                   wildlife from water storage or diversion projects  
20                   within watersheds associated with water storage  
21                   projects funded under this section.

22                   (G) Any other purposes consistent with  
23                   reclamation laws or other Federal law.

24          (f) DEFINITIONS.—For the purposes of this title, the  
25          following definitions apply:

1           (1) ACCOUNT.—The term “Account” means the  
2 Reclamation Surface Water Storage Account estab-  
3 lished under subsection (e)(2).

4           (2) CONSTRUCTION.—The term “construction”  
5 means the designing, materials engineering and test-  
6 ing, surveying, and building of surface water storage  
7 including additions to existing surface water storage  
8 and construction of new surface water storage facili-  
9 ties, exclusive of any Federal statutory or regulatory  
10 obligations relating to any permit, review, approval,  
11 or other such requirement.

12           (3) SURFACE WATER STORAGE.—The term  
13 “surface water storage” means any federally owned  
14 facility under the jurisdiction of the Bureau of Rec-  
15 lamation or any non-Federal facility used for the  
16 surface storage and supply of water resources.

17           (4) TREASURY RATE.—The term “Treasury  
18 rate” means the 20-year Constant Maturity Treas-  
19 ury (CMT) rate published by the United States De-  
20 partment of the Treasury existing on the effective  
21 date of the contract.

22           (5) WATER USERS’ ASSOCIATION.—The term  
23 “water users’ association” means—

24                   (A) an entity organized and recognized  
25                   under State laws that is eligible to enter into

1 contracts with reclamation to receive contract  
2 water for delivery to and users of the water and  
3 to pay applicable charges; and

4 (B) includes a variety of entities with dif-  
5 ferent names and differing functions, such as  
6 associations, conservatory district, irrigation  
7 district, municipality, and water project con-  
8 tract unit.

## 9 **TITLE X—SAFETY OF DAMS**

### 10 **SEC. 1001. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 11 **EFITS.**

12 The Reclamation Safety of Dams Act of 1978 is  
13 amended—

14 (1) in section 3, by striking “Construction” and  
15 inserting “Except as provided in section 5B, con-  
16 struction”; and

17 (2) by inserting after section 5A (43 U.S.C.  
18 509) the following:

### 19 **“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 20 **EFITS.**

21 “Notwithstanding section 3, if the Secretary deter-  
22 mines that additional project benefits, including but not  
23 limited to additional conservation storage capacity, are  
24 feasible and not inconsistent with the purposes of this Act,  
25 the Secretary is authorized to develop additional project

1 benefits through the construction of new or supplementary  
2 works on a project in conjunction with the Secretary's ac-  
3 tivities under section 2 of this Act and subject to the con-  
4 ditions described in the feasibility study, provided—

5           “(1) the Secretary determines that developing  
6 additional project benefits through the construction  
7 of new or supplementary works on a project will pro-  
8 mote more efficient management of water and  
9 water-related facilities;

10           “(2) the feasibility study pertaining to addi-  
11 tional project benefits has been authorized pursuant  
12 to section 8 of the Federal Water Project Recreation  
13 Act of 1965 (16 U.S.C. 4601–18); and

14           “(3) the costs associated with developing the  
15 additional project benefits are agreed to in writing  
16 between the Secretary and project proponents and  
17 shall be allocated to the authorized purposes of the  
18 structure and repaid consistent with all provisions of  
19 Federal Reclamation law (the Act of June 17, 1902,  
20 43 U.S.C. 371 et seq.) and Acts supplemental to  
21 and amendatory of that Act.”.

1           **TITLE XI—WATER RIGHTS**  
2                           **PROTECTION**

3   **SEC. 1101. SHORT TITLE.**

4           This title may be cited as the “Water Rights Protec-  
5   tion Act”.

6   **SEC. 1102. DEFINITION OF WATER RIGHT.**

7           In this title, the term “water right” means any sur-  
8   face or groundwater right filed, permitted, certified, con-  
9   firmed, decreed, adjudicated, or otherwise recognized by  
10   a judicial proceeding or by the State in which the user  
11   acquires possession of the water or puts the water to bene-  
12   ficial use, including water rights for federally recognized  
13   Indian tribes.

14   **SEC. 1103. TREATMENT OF WATER RIGHTS.**

15           The Secretary of the Interior and the Secretary of  
16   Agriculture shall not—

17               (1) condition or withhold, in whole or in part,  
18           the issuance, renewal, amendment, or extension of  
19           any permit, approval, license, lease, allotment, ease-  
20           ment, right-of-way, or other land use or occupancy  
21           agreement on—

22                       (A) limitation or encumbrance of any  
23           water right, or the transfer of any water right  
24           (including joint and sole ownership), directly or

1 indirectly to the United States or any other des-  
2 ignee; or

3 (B) any other impairment of any water  
4 right, in whole or in part, granted or otherwise  
5 recognized under State law, by Federal or State  
6 adjudication, decree, or other judgment, or pur-  
7 suant to any interstate water compact;

8 (2) require any water user (including any feder-  
9 ally recognized Indian tribe) to apply for or acquire  
10 a water right in the name of the United States  
11 under State law as a condition of the issuance, re-  
12 newal, amendment, or extension of any permit, ap-  
13 proval, license, lease, allotment, easement, right-of-  
14 way, or other land use or occupancy agreement;

15 (3) assert jurisdiction over groundwater with-  
16 drawals or impacts on groundwater resources, unless  
17 jurisdiction is asserted, and any regulatory or policy  
18 actions taken pursuant to such assertion are, con-  
19 sistent with, and impose no greater restrictions or  
20 regulatory requirements than, applicable State laws  
21 (including regulations) and policies governing the  
22 protection and use of groundwater resources; or

23 (4) infringe on the rights and obligations of a  
24 State in evaluating, allocating, and adjudicating the  
25 waters of the State originating on or under, or flow-



1       ing from, land owned or managed by the Federal  
2       Government.

3       **SEC. 1104. RECOGNITION OF STATE AUTHORITY.**

4       (a) IN GENERAL.—In carrying out section 1103, the  
5       Secretary of the Interior and the Secretary of Agriculture  
6       shall—

7               (1) recognize the longstanding authority of the  
8       States relating to evaluating, protecting, allocating,  
9       regulating, and adjudicating groundwater by any  
10      means, including a rulemaking, permitting, directive,  
11      water court adjudication, resource management  
12      planning, regional authority, or other policy; and

13              (2) coordinate with the States in the adoption  
14      and implementation by the Secretary of the Interior  
15      or the Secretary of Agriculture of any rulemaking,  
16      policy, directive, management plan, or other similar  
17      Federal action so as to ensure that such actions are  
18      consistent with, and impose no greater restrictions  
19      or regulatory requirements than, State groundwater  
20      laws and programs.

21      (b) EFFECT ON STATE WATER RIGHTS.—In carrying  
22      out this title, the Secretary of the Interior and the Sec-  
23      retary of Agriculture shall not take any action that ad-  
24      versely affects—

25              (1) any water rights granted by a State;

1           (2) the authority of a State in adjudicating  
2 water rights;

3           (3) definitions established by a State with re-  
4 spect to the term “beneficial use”, “priority of water  
5 rights”, or “terms of use”;

6           (4) terms and conditions of groundwater with-  
7 drawal, guidance and reporting procedures, and con-  
8 servation and source protection measures established  
9 by a State;

10          (5) the use of groundwater in accordance with  
11 State law; or

12          (6) any other rights and obligations of a State  
13 established under State law.

14 **SEC. 1105. EFFECT OF TITLE.**

15       (a) **EFFECT ON EXISTING AUTHORITY.**—Nothing in  
16 this title limits or expands any existing legally recognized  
17 authority of the Secretary of the Interior or the Secretary  
18 of Agriculture to issue, grant, or condition any permit, ap-  
19 proval, license, lease, allotment, easement, right-of-way, or  
20 other land use or occupancy agreement on Federal land  
21 subject to the jurisdiction of the Secretary of the Interior  
22 or the Secretary of Agriculture, respectively.

23       (b) **EFFECT ON RECLAMATION CONTRACTS.**—Noth-  
24 ing in this title interferes with Bureau of Reclamation con-  
25 tracts entered into pursuant to the reclamation laws.

1           (c) EFFECT ON ENDANGERED SPECIES ACT.—Noth-  
2 ing in this title affects the implementation of the Endan-  
3 gered Species Act of 1973 (16 U.S.C. 1531 et seq.).

4           (d) EFFECT ON FEDERAL RESERVED WATER  
5 RIGHTS.—Nothing in this title limits or expands any exist-  
6 ing or claimed reserved water rights of the Federal Gov-  
7 ernment on land administered by the Secretary of the In-  
8 terior or the Secretary of Agriculture.

9           (e) EFFECT ON FEDERAL POWER ACT.—Nothing in  
10 this title limits or expands authorities under sections 4(e),  
11 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),  
12 803(j), 811).

13           (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in  
14 this title limits or expands any water right or treaty right  
15 of any federally recognized Indian tribe.

