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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. VALADAO introduced the following bill; which was referred to the
Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gaining Responsibility
5 on Water Act of 2017”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—CENTRAL VALLEY PROJECT WATER RELIABILITY

- Sec. 101. Amendment to purposes.
- Sec. 102. Amendment to definition.
- Sec. 103. Contracts.
- Sec. 104. Water transfers, improved water management, and conservation.
- Sec. 105. Fish, wildlife, and habitat restoration.
- Sec. 106. Restoration fund.
- Sec. 107. Additional authorities.
- Sec. 108. Bay-Delta Accord.
- Sec. 109. Natural and artificially spawned species.
- Sec. 110. Regulatory streamlining.
- Sec. 111. Additional emergency consultation.
- Sec. 112. Regarding the operation of Folsom Reservoir.
- Sec. 113. Applicants.
- Sec. 114. San Joaquin River settlement.

TITLE II—CALFED STORAGE FEASIBILITY STUDIES

- Sec. 201. Studies.
- Sec. 202. Temperance Flat.
- Sec. 203. CALFED storage accountability.
- Sec. 204. Water storage project construction.

TITLE III—WATER RIGHTS PROTECTIONS

- Sec. 301. Offset for State Water Project.
- Sec. 302. Area of origin protections.
- Sec. 303. No redirected adverse impacts.
- Sec. 304. Allocations for Sacramento Valley contractors.
- Sec. 305. Effect on existing obligations.

TITLE IV—MISCELLANEOUS

- Sec. 401. Water supply accounting.
- Sec. 402. Operations of the Trinity River Division.
- Sec. 403. Report on results of water usage.
- Sec. 404. Klamath project consultation applicants.
- Sec. 405. Losses caused by the construction and operation of storage projects.
- Sec. 406. CA State Water Resources Control Board.

TITLE V—WATER SUPPLY PERMITTING ACT

- Sec. 501. Short title.
- Sec. 502. Definitions.
- Sec. 503. Establishment of lead agency and cooperating agencies.
- Sec. 504. Bureau responsibilities.
- Sec. 505. Cooperating agency responsibilities.
- Sec. 506. Funding to process permits.

TITLE VI—BUREAU OF RECLAMATION PROJECT STREAMLINING

- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. Acceleration of studies.
- Sec. 604. Expedited completion of reports.
- Sec. 605. Project acceleration.
- Sec. 606. Annual report to Congress.

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

Sec. 701. Short title.

Sec. 702. Prepayment of certain repayment contracts between the United States and contractors of federally developed water supplies.

TITLE VIII—SAFETY OF DAMS

Sec. 801. Authorization of additional project benefits.

TITLE IX—WATER RIGHTS PROTECTION

Sec. 901. Short title.

Sec. 902. Definition of water right.

Sec. 903. Treatment of water rights.

Sec. 904. Recognition of State authority.

Sec. 905. Effect of title.

1 **TITLE I—CENTRAL VALLEY**
2 **PROJECT WATER RELIABILITY**

3 **SEC. 101. AMENDMENT TO PURPOSES.**

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

6 (1) in subsection (f), by striking the period at
7 the end; and

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

9 “(g) to ensure that water dedicated to fish and wild-
10 life purposes by this title is replaced and provided to Cen-
11 tral Valley Project water contractors by December 31,
12 2018, at the lowest cost reasonably achievable; and

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

15 **SEC. 102. AMENDMENT TO DEFINITION.**

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

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

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

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

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

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

13 “(n) the term ‘reasonable flows’ means water flows
14 capable of being maintained taking into account com-
15 peting consumptive uses of water and economic, environ-
16 mental, and social factors.”.

17 **SEC. 103. CONTRACTS.**

18 Section 3404 of the Central Valley Project Improve-
19 ment Act (106 Stat. 4708) is amended—

20 (1) in the heading, by striking “**LIMITATION**
21 **ON CONTRACTING AND CONTRACT REFORM**”

22 and inserting “**CONTRACTS**”; and

23 (2) by striking the language of the section and
24 by adding:

1 “(a) RENEWAL OF EXISTING LONG-TERM CON-
2 TRACTS.—Upon request of the contractor, the Secretary
3 shall renew any existing long-term repayment or water
4 service contract that provides for the delivery of water
5 from the Central Valley Project for a period of 40 years.

6 “(b) ADMINISTRATION OF CONTRACTS.—Except as
7 expressly provided by this Act, any existing long-term re-
8 payment or water service contract for the delivery of water
9 from the Central Valley Project shall be administered pur-
10 suant to the Act of July 2, 1956 (70 Stat. 483).

11 “(c) DELIVERY CHARGE.—Beginning on the date of
12 the enactment of this Act, a contract entered into or re-
13 newed pursuant to this section shall include a provision
14 that requires the Secretary to charge the other party to
15 such contract only for water actually delivered by the Sec-
16 retary.”.

17 **SEC. 104. WATER TRANSFERS, IMPROVED WATER MANAGE-**
18 **MENT, AND CONSERVATION.**

19 Section 3405 of the Central Valley Project Improve-
20 ment Act (106 Stat. 4709) is amended as follows:

21 (1) In subsection (a)—

22 (A) by inserting before “Except as pro-
23 vided herein” the following: “The Secretary
24 shall take all necessary actions to facilitate and
25 expedite transfers of Central Valley Project

1 water in accordance with this Act or any other
2 provision of Federal reclamation law and the
3 National Environmental Policy Act of 1969.”;

4 (B) in paragraph (1)(A), by striking “to
5 combination” and inserting “or combination”;

6 (C) in paragraph (2), by adding at the end
7 the following:

8 “(E) The contracting district from which
9 the water is coming, the agency, or the Sec-
10 retary shall determine if a written transfer pro-
11 posal is complete within 45 days after the date
12 of submission of such proposal. If such district
13 or agency or the Secretary determines that such
14 proposal is incomplete, such district or agency
15 or the Secretary shall state with specificity
16 what must be added to or revised in order for
17 such proposal to be complete.

18 “(F) Except as provided in this section,
19 the Secretary shall not impose mitigation or
20 other requirements on a proposed transfer, but
21 the contracting district from which the water is
22 coming or the agency shall retain all authority
23 under State law to approve or condition a pro-
24 posed transfer.”; and

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

1 “(4) Notwithstanding any other provision of
2 Federal reclamation law—

3 “(A) the authority to make transfers or ex-
4 changes of, or banking or recharge arrange-
5 ments using, Central Valley Project water that
6 could have been conducted before October 30,
7 1992, is valid, and such transfers, exchanges,
8 or arrangements shall not be subject to, limited,
9 or conditioned by this title; and

10 “(B) this title shall not supersede or re-
11 voke the authority to transfer, exchange, bank,
12 or recharge Central Valley Project water that
13 existed prior to October 30, 1992.”.

14 (2) In subsection (b)—

15 (A) in the heading, by striking “METER-
16 ING” and inserting “MEASUREMENT”; and

17 (B) by inserting after the first sentence
18 the following: “The contracting district or agen-
19 cy, not including contracting districts serving
20 multiple agencies with separate governing
21 boards, shall ensure that all contractor-owned
22 water delivery systems within its boundaries
23 measure surface water at the district or agen-
24 cy’s facilities up to the point the surface water
25 is commingled with other water supplies.”.

1 (3) By striking subsection (d).

2 (4) By redesignating subsections (e) and (f) as
3 subsections (d) and (e), respectively.

4 (5) By amending subsection (e)(as redesignated
5 by paragraph (4))—

6 (A) by striking “as a result of the in-
7 creased repayment” and inserting “that exceed
8 the cost-of-service”;

9 (B) by inserting “the delivery of” after
10 “rates applicable to”; and

11 (C) by striking “, and all increased reve-
12 nues received by the Secretary as a result of the
13 increased water prices established under sub-
14 section 3405(d) of this section,”.

15 **SEC. 105. FISH, WILDLIFE, AND HABITAT RESTORATION.**

16 Section 3406 of the Central Valley Project Improve-
17 ment Act (106 Stat. 4714) is amended as follows:

18 (1) In subsection (b)—

19 (A) in paragraph (1)(B)—

20 (i) by striking “is authorized and di-
21 rected to” and inserting “may”;

22 (ii) by inserting “reasonable water”
23 after “to provide”;

1 (iii) by striking “anadromous fish, ex-
2 cept that such” and inserting “anad-
3 romous fish. Such”;

4 (iv) by striking “Instream flow” and
5 inserting “Reasonable instream flow”;

6 (v) by inserting “and the National
7 Marine Fisheries Service” after “United
8 States Fish and Wildlife Service”; and

9 (vi) by striking “California Depart-
10 ment of Fish and Game” and inserting
11 “United States Geological Survey”;

12 (B) in paragraph (2)—

13 (i) by striking “primary purpose” and
14 inserting “purposes”;

15 (ii) by striking “but not limited to”
16 before “additional obligations”; and

17 (iii) by adding after the period the fol-
18 lowing: “All Central Valley Project water
19 used for the purposes specified in this
20 paragraph shall be credited to the quantity
21 of Central Valley Project yield dedicated
22 and managed under this paragraph by de-
23 termining how the dedication and manage-
24 ment of such water would affect the deliv-
25 ery capability of the Central Valley Project

1 during the 1928 to 1934 drought period
2 after fishery, water quality, and other flow
3 and operational requirements imposed by
4 terms and conditions existing in licenses,
5 permits, and other agreements pertaining
6 to the Central Valley Project under appli-
7 cable State or Federal law existing on Oc-
8 tober 30, 1992, have been met. To the full-
9 est extent possible and in accordance with
10 section 3411, Central Valley Project water
11 dedicated and managed pursuant to this
12 paragraph shall be reused to fulfill the
13 Secretary's remaining contractual obliga-
14 tions to provide Central Valley Project
15 water for agricultural or municipal and in-
16 dustrial purposes.”;

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

18 “(C) If by March 15th of any year the
19 quantity of Central Valley Project water fore-
20 casted to be made available to water service or
21 repayment contractors in the Delta Division of
22 the Central Valley Project is below 75 percent
23 of the total quantity of water to be made avail-
24 able under said contracts, the quantity of Cen-
25 tral Valley Project yield dedicated and managed

1 for that year under this paragraph shall be re-
2 duced by 25 percent.”.

3 (2) By adding at the end the following:

4 “(i) SATISFACTION OF PURPOSES.—
5 By pursuing the activities described in this
6 section, the Secretary shall be deemed to
7 have met the mitigation, protection, res-
8 toration, and enhancement purposes of this
9 title.”.

10 **SEC. 106. RESTORATION FUND.**

11 (a) IN GENERAL.—Section 3407(a) of the Central
12 Valley Project Improvement Act (106 Stat. 4726) is
13 amended as follows:

14 (1) By inserting “(1) IN GENERAL.—” before
15 “There is hereby”.

16 (2) By striking “Not less than 67 percent” and
17 all that follows through “Monies” and inserting
18 “Monies”.

19 (3) By adding at the end the following:

20 “(2) PROHIBITIONS.—The Secretary may not directly
21 or indirectly require a donation or other payment to the
22 Restoration Fund—

23 “(A) or environmental restoration or mitigation
24 fees not otherwise provided by law, as a condition
25 to—

1 “(i) providing for the storage or convey-
2 ance of non-Central Valley Project water pursu-
3 ant to Federal reclamation laws; or

4 “(ii) the delivery of water pursuant to sec-
5 tion 215 of the Reclamation Reform Act of
6 1982 (Public Law 97–293; 96 Stat. 1270); or

7 “(B) for any water that is delivered with the
8 sole intent of groundwater recharge.”.

9 (b) CERTAIN PAYMENTS.—Section 3407(c)(1) of the
10 Central Valley Project Improvement Act is amended—

11 (1) by striking “mitigation and restoration”;

12 (2) by striking “provided for or”; and

13 (3) by striking “of fish, wildlife” and all that
14 follows through the period and inserting “of carrying
15 out all activities described in this title.”.

16 (c) ADJUSTMENT AND ASSESSMENT OF MITIGATION
17 AND RESTORATION PAYMENTS.—Section 3407(d)(2) of
18 the Central Valley Project Improvement Act is amended
19 by inserting “, or after October 1, 2016, \$4 per megawatt-
20 hour for Central Valley Project power sold to power con-
21 tractors (October 2016 price levels)” after “\$12 per acre-
22 foot (October 1992 price levels) for municipal and indus-
23 trial water sold and delivered by the Central Valley
24 Project”.

1 (d) COMPLETION OF ACTIONS.—Section
2 3407(d)(2)(A) of the Central Valley Project Improvement
3 Act is amended by inserting “no later than December 31,
4 2020,” after “That upon the completion of the fish, wild-
5 life, and habitat mitigation and restoration actions man-
6 dated under section 3406 of this title,”.

7 (e) REPORT; ADVISORY BOARD.—Section 3407 of the
8 Central Valley Project Improvement Act (106 Stat. 4714)
9 is amended by adding at the end the following:

10 “(g) REPORT ON EXPENDITURE OF FUNDS.—At the
11 end of each fiscal year, the Secretary, in consultation with
12 the Restoration Fund Advisory Board, shall submit to
13 Congress a plan for the expenditure of all of the funds
14 deposited into the Restoration Fund during the preceding
15 fiscal year. Such plan shall contain a cost-effectiveness
16 analysis of each expenditure.

17 “(h) ADVISORY BOARD.—

18 “(1) ESTABLISHMENT.—There is hereby estab-
19 lished the Restoration Fund Advisory Board (herein-
20 after in this section referred to as the ‘Advisory
21 Board’) composed of 12 members selected by the
22 Secretary, each for four-year terms, one of whom
23 shall be designated by the Secretary as Chairman.
24 The members shall be selected so as to represent the
25 various Central Valley Project stakeholders, four of

1 whom shall be from CVP agricultural users, three
2 from CVP municipal and industrial users, three
3 from CVP power contractors, and two at the discre-
4 tion of the Secretary. The Secretary and the Sec-
5 retary of Commerce may each designate a represent-
6 ative to act as an observer of the Advisory Board.

7 “(2) DUTIES.—The duties of the Advisory
8 Board are as follows:

9 “(A) To meet at least semiannually to de-
10 velop and make recommendations to the Sec-
11 retary regarding priorities and spending levels
12 on projects and programs carried out pursuant
13 to the Central Valley Project Improvement Act.

14 “(B) To ensure that any advice or rec-
15 ommendation made by the Advisory Board to
16 the Secretary reflect the independent judgment
17 of the Advisory Board.

18 “(C) Not later than December 31, 2018,
19 and annually thereafter, to transmit to the Sec-
20 retary and Congress recommendations required
21 under subparagraph (A).

22 “(D) Not later than December 31, 2018,
23 and biennially thereafter, to transmit to Con-
24 gress a report that details the progress made in

1 achieving the actions mandated under section
2 3406.

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

7 **SEC. 107. ADDITIONAL AUTHORITIES.**

8 (a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section
9 3408(c) of the Central Valley Project Improvement Act
10 (106 Stat. 4728) is amended to read as follows:

11 “(c) CONTRACTS FOR ADDITIONAL STORAGE AND
12 DELIVERY OF WATER.—

13 “(1) IN GENERAL.—The Secretary is authorized
14 to enter into contracts pursuant to Federal reclama-
15 tion law and this title with any Federal agency, Cali-
16 fornia water user or water agency, State agency, or
17 private organization for the exchange, impoundment,
18 storage, carriage, and delivery of nonproject water
19 for domestic, municipal, industrial, fish and wildlife,
20 and any other beneficial purpose.

21 “(2) LIMITATION.—Nothing in this subsection
22 shall be deemed to supersede the provisions of sec-
23 tion 103 of Public Law 99–546 (100 Stat. 3051).

24 “(3) AUTHORITY FOR CERTAIN ACTIVITIES.—
25 The Secretary shall use the authority granted by

1 this subsection in connection with requests to ex-
2 change, impound, store, carry, or deliver nonproject
3 water using Central Valley Project facilities for any
4 beneficial purpose.

5 “(4) RATES.—The Secretary shall develop rates
6 not to exceed the amount required to recover the
7 reasonable costs incurred by the Secretary in con-
8 nection with a beneficial purpose under this sub-
9 section. Such rates shall be charged to a party using
10 Central Valley Project facilities for such purpose.
11 Such costs shall not include any donation or other
12 payment to the Restoration Fund.

13 “(5) CONSTRUCTION.—This subsection shall be
14 construed and implemented to facilitate and encour-
15 age the use of Central Valley Project facilities to ex-
16 change, impound, store, carry, or deliver nonproject
17 water for any beneficial purpose.”.

18 (b) REPORTING REQUIREMENTS.—Section 3408(f) of
19 the Central Valley Project Improvement Act (106 Stat.
20 4729) is amended—

21 (1) by striking “Interior and Insular Affairs
22 and the Committee on Merchant Marine and Fish-
23 eries” and inserting “Natural Resources”;

1 (2) in the second sentence, by inserting before
2 the period at the end the following: “, including
3 progress on the plan required by subsection (j)”;

4 (3) by adding at the end the following: “The fil-
5 ing and adequacy of such report shall be personally
6 certified to the Committees referenced above by the
7 Regional Director of the Mid-Pacific Region of the
8 Bureau of Reclamation.”.

9 (c) PROJECT YIELD INCREASE.—Section 3408(j) of
10 the Central Valley Project Improvement Act (106 Stat.
11 4730) is amended as follows:

12 (1) By redesignating paragraphs (1) through
13 (7) as subparagraphs (A) through (G), respectively.

14 (2) By striking “In order to minimize adverse
15 effects, if any, upon” and inserting “(1) IN GEN-
16 ERAL.—In order to minimize adverse effects upon”.

17 (3) By striking “needs, the Secretary,” and all
18 that follows through “submit to the Congress, a”
19 and inserting “needs, the Secretary, on a priority
20 basis and not later than September 30, 2018, shall
21 submit to Congress a”.

22 (4) By striking “increase,” and all that follows
23 through “options:” and inserting “increase, as soon
24 as possible but not later than September 30, 2017
25 (except for the construction of new facilities which

1 shall not be limited by that deadline), the water of
2 the Central Valley Project by the amount dedicated
3 and managed for fish and wildlife purposes under
4 this title and otherwise required to meet the pur-
5 poses of the Central Valley Project including satis-
6 fying contractual obligations. The plan required by
7 this subsection shall include recommendations on ap-
8 propriate cost-sharing arrangements and authorizing
9 legislation or other measures needed to implement
10 the intent, purposes, and provisions of this sub-
11 section and a description of how the Secretary in-
12 tends to use the following options—”.

13 (5) In subparagraph (A), by inserting “and
14 construction of new water storage facilities” before
15 the semicolon.

16 (6) In subparagraph (F), by striking “and” at
17 the end.

18 (7) In subparagraph (G), by striking the period
19 and all that follows through the end of the sub-
20 section and inserting “; and”.

21 (8) By inserting after subparagraph (G) the fol-
22 lowing:

23 “(H) Water banking and recharge.”.

24 (9) By adding at the end the following:

1 “(2) IMPLEMENTATION OF PLAN.—The Sec-
2 retary shall implement the plan required by para-
3 graph (1) commencing on October 1, 2017. In order
4 to carry out this subsection, the Secretary shall co-
5 ordinate with the State of California in imple-
6 menting measures for the long-term resolution of
7 problems in the San Francisco Bay/Sacramento-San
8 Joaquin Delta Estuary.

9 “(3) FAILURE OF THE PLAN.—Notwithstanding
10 any other provision of Federal reclamation law, if by
11 September 30, 2018, the plan required by paragraph
12 (1) fails to increase the annual delivery capability of
13 the Central Valley Project by 800,000 acre-feet, im-
14 plementation of any non-mandatory action under
15 section 3406(b)(2) shall be suspended until the plan
16 achieves an increase in the annual delivery capability
17 of the Central Valley Project by 800,000 acre-feet.”.

18 (d) TECHNICAL CORRECTION.—Section 3408(h) of
19 the Central Valley Project Improvement Act (106 Stat.
20 4729) is amended—

21 (1) in paragraph (1), by striking “paragraph
22 (h)(2)” and inserting “paragraph (2)”; and

23 (2) in paragraph (2), by striking “paragraph
24 (h)(i)” and inserting “paragraph (1)”.

1 (e) WATER STORAGE PROJECT CONSTRUCTION.—
2 The Secretary, acting through the Commissioner of the
3 Bureau of Reclamation, may partner or enter into an
4 agreement on the water storage projects identified in sec-
5 tion 103(d)(1) of the Water Supply Reliability, and Envi-
6 ronmental Improvement Act (Public Law 108–361)(and
7 Acts supplemental and amendatory to the Act) with local
8 joint powers authorities formed pursuant to State law by
9 irrigation districts and other local water districts and local
10 governments within the applicable hydrologic region, to
11 advance these projects. No additional Federal funds are
12 authorized for the activities authorized in sections
13 103(d)(1)(A)(i), 103(d)(1)(A)(ii), and 103(d)(1)(A)(iii) of
14 Public Law 108–361. However, each water storage project
15 under sections 103(d)(1)(A)(i), 103(d)(1)(A)(ii), and
16 103(d)(1)(A)(iii) of Public Law 108–361 is authorized for
17 construction if non-Federal funds are used for financing
18 and constructing the project.

19 **SEC. 108. BAY-DELTA ACCORD.**

20 (a) CONGRESSIONAL DIRECTION REGARDING CEN-
21 TRAL VALLEY PROJECT AND CALIFORNIA STATE WATER
22 PROJECT OPERATIONS.—The Central Valley Project and
23 the State Water Project shall be operated pursuant to the
24 water quality standards and operational constraints de-
25 scribed in the “Principles for Agreement on the Bay-Delta

1 Standards Between the State of California and the Fed-
2 eral Government” dated December 15, 1994, and such op-
3 erations shall proceed without regard to the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.) or any other
5 law pertaining to the operation of the Central Valley
6 Project and the California State Water Project. Imple-
7 mentation of this section shall be in strict conformance
8 with the “Principles for Agreement on the Bay-Delta
9 Standards Between the State of California and the Fed-
10 eral Government” dated December 15, 1994.

11 (b) APPLICATION OF LAWS TO OTHERS.—Neither a
12 Federal department nor the State of California, including
13 any agency or board of the State of California, shall im-
14 pose on any water right obtained pursuant to State law,
15 including a pre-1914 appropriative right, any condition
16 that restricts the exercise of that water right in order to
17 conserve, enhance, recover or otherwise protect any species
18 that is affected by operations of the Central Valley Project
19 or California State Water Project. Nor shall the State of
20 California, including any agency or board of the State of
21 California, restrict the exercise of any water right obtained
22 pursuant to State law, including a pre-1914 appropriative
23 right, in order to protect, enhance, or restore under the
24 Public Trust Doctrine any public trust value. Implementa-
25 tion of the “Principles for Agreement on the Bay-Delta

1 Standards Between the State of California and the Fed-
2 eral Government” dated December 15, 1994, shall be in
3 strict compliance with the water rights priority system and
4 statutory protections for areas of origin.

5 (c) COSTS.—No cost associated with the implementa-
6 tion of this section shall be imposed directly or indirectly
7 on any Central Valley Project contractor, or any other per-
8 son or entity, unless such costs are incurred on a voluntary
9 basis.

10 (d) NATIVE SPECIES PROTECTION.—California law is
11 preempted with respect to any restriction on the quantity
12 or size of nonnative fish taken or harvested that preys
13 upon one or more native fish species that occupy the Sac-
14 ramento and San Joaquin Rivers and their tributaries or
15 the Sacramento-San Joaquin Rivers Delta.

16 **SEC. 109. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

17 After the date of the enactment of this title, and re-
18 gardless of the date of listing, the Secretaries of the Inte-
19 rior and Commerce shall not distinguish between natural-
20 spawned and hatchery-spawned or otherwise artificially
21 propagated strains of a species in making any determina-
22 tion under the Endangered Species Act of 1973 (16
23 U.S.C. 1531 et seq.) that relates to any anadromous fish
24 species present in the Sacramento and San Joaquin Rivers
25 or their tributaries and ascend those rivers and their trib-

1 utaries to reproduce after maturing in San Francisco Bay
2 or the Pacific Ocean.

3 **SEC. 110. REGULATORY STREAMLINING.**

4 (a) **APPLICABILITY OF CERTAIN LAWS.**—Filing of a
5 Notice of Determination or a Notice of Exemption for any
6 project, including the issuance of a permit under State
7 law, related to any project of the CVP or the delivery of
8 water therefrom in accordance with the California Envi-
9 ronmental Quality Act shall be deemed to meet the re-
10 quirements of section 102(2)(C) of the National Environ-
11 mental Protection Act of 1969 (42 U.S.C. 4332(2)(C)) for
12 that project or permit.

13 (b) **CONTINUATION OF PROJECT.**—The Bureau of
14 Reclamation shall not be required to cease or modify any
15 major Federal action or other activity related to any
16 project of the CVP or the delivery of water there from
17 pending completion of judicial review of any determination
18 made under the National Environmental Protection Act
19 of 1969 (42 U.S.C. 4332(2)(C)).

20 (c) **PROJECT DEFINED.**—For the purposes of this
21 section:

22 (1) **CVP.**—The term “CVP” means the Central
23 Valley Project.

24 (2) **PROJECT.**—The term “project”—

25 (A) means an activity that—

1 (i) is undertaken by a public agency,
2 funded by a public agency, or that requires
3 an issuance of a permit by a public agency;

4 (ii) has a potential to result in phys-
5 ical change to the environment; and

6 (iii) may be subject to several discre-
7 tionary approvals by governmental agen-
8 cies;

9 (B) may include construction activities,
10 clearing or grading of land, improvements to
11 existing structures, and activities or equipment
12 involving the issuance of a permit; or

13 (C) as defined under the California Envi-
14 ronmental Quality Act in section 21065 of the
15 California Public Resource Code.

16 **SEC. 111. ADDITIONAL EMERGENCY CONSULTATION.**

17 For adjustments to operating criteria other than
18 under section 108 or to take urgent actions to address
19 water supply shortages for the least amount of time or
20 volume of diversion necessary as determined by the Com-
21 missioner of Reclamation, no mitigation measures shall be
22 required during any year that the Sacramento Valley
23 index is 6.5 or lower, or at the request of the State of
24 California, and until two succeeding years following either
25 of those events have been completed where the final Sac-

1 ramento Valley Index is 7.8 or greater, and any mitigation
2 measures imposed must be based on quantitative data and
3 required only to the extent that such data demonstrates
4 actual harm to species.

5 **SEC. 112. REGARDING THE OPERATION OF FOLSOM RES-**
6 **ERVOIR.**

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

16 **SEC. 113. APPLICANTS.**

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

1 and responsibilities extended to applicants in the consulta-
2 tion process.

3 **SEC. 114. SAN JOAQUIN RIVER SETTLEMENT.**

4 (a) CALIFORNIA STATE LAW SATISFIED BY WARM
5 WATER FISHERY.—

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

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

22 (b) REPEAL OF THE SAN JOAQUIN RIVER SETTLE-
23 MENT.—As of the date of enactment of this section, the
24 Secretary of the Interior shall cease any action to imple-
25 ment the San Joaquin River Restoration Settlement Act

1 (subtitle A of title X of Public Law 111–11) and the Stip-
2 ulation of Settlement (Natural Resources Defense Council,
3 et al. v. Kirk Rodgers, et al., Eastern District of Cali-
4 fornia, No. Civ. S–88–1658 LKK/GGH).

5 **TITLE II—CALFED STORAGE**
6 **FEASIBILITY STUDIES**

7 **SEC. 201. STUDIES.**

8 The Secretary of the Interior, through the Commis-
9 sioner of Reclamation, shall—

10 (1) complete the feasibility studies described in
11 clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of
12 Public Law 108–361 (118 Stat. 1684) and submit
13 such studies to the appropriate committees of the
14 House of Representatives and the Senate not later
15 than December 31, 2017;

16 (2) complete the feasibility study described in
17 clause (i)(II) of section 103(d)(1)(A) of Public Law
18 108–361 and submit such study to the appropriate
19 committees of the House of Representatives and the
20 Senate not later than November 30, 2018;

21 (3) complete a publicly available draft of the
22 feasibility study described in clause (ii)(I) of section
23 103(d)(1)(A) of Public Law 108–361 and submit
24 such study to the appropriate committees of the

1 House of Representatives and the Senate not later
2 than November 30, 2018;

3 (4) complete the feasibility study described in
4 clause (ii)(I) of section 103(d)(1)(A) of Public Law
5 108–361 and submit such study to the appropriate
6 committees of the House of Representatives and the
7 Senate not later than November 30, 2019;

8 (5) complete the feasibility study described in
9 section 103(f)(1)(A) of Public Law 108–361 (118
10 Stat. 1694) and submit such study to the appro-
11 priate Committees of the House of Representatives
12 and the Senate not later than December 31, 2019;

13 (6) provide a progress report on the status of
14 the feasibility studies referred to in paragraphs (1)
15 through (3) to the appropriate committees of the
16 House of Representatives and the Senate not later
17 than 90 days after the date of the enactment of this
18 Act and each 180 days thereafter until December
19 31, 2019, as applicable. The report shall include
20 timelines for study completion, draft environmental
21 impact statements, final environmental impact state-
22 ments, and Records of Decision;

23 (7) in conducting any feasibility study under
24 this Act, the reclamation laws, the Central Valley
25 Project Improvement Act (title XXXIV of Public

1 Law 102–575; 106 Stat. 4706), the Fish and Wild-
2 life Coordination Act (16 U.S.C. 661 et seq.), the
3 Endangered Species Act of 1973 (16 U.S.C. 1531 et
4 seq.), and other applicable law, for the purposes of
5 determining feasibility the Secretary shall document,
6 delineate, and publish costs directly relating to the
7 engineering and construction of a water storage
8 project separately from the costs resulting from reg-
9 ulatory compliance or the construction of auxiliary
10 facilities necessary to achieve regulatory compliance;
11 and

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

18 **SEC. 202. TEMPERANCE FLAT.**

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

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

23 (2) RMP.—The term “RMP” means the docu-
24 ment titled “Bakersfield Field Office, Record of De-

1 cision and Approved Resource Management Plan,”
2 dated December 2014.

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

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

9 (1) the Project; or

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

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

23 (d) RESERVED WATER RIGHTS.—Effective Decem-
24 ber 22, 2017, there shall be no Federal reserved water
25 rights to any segment of the San Joaquin River related

1 to the Project as a result of any designation made under
2 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

3 **SEC. 203. CALFED STORAGE ACCOUNTABILITY.**

4 If the Secretary of the Interior fails to provide the
5 feasibility studies described in section 201 to the appro-
6 priate committees of the House of Representatives and the
7 Senate by the times prescribed, the Secretary shall notify
8 each committee chair individually in person on the status
9 of each project once a month until the feasibility study
10 for that project is provided to Congress.

11 **SEC. 204. WATER STORAGE PROJECT CONSTRUCTION.**

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

23 (b) AUTHORIZATION FOR PROJECT.—If the Secretary
24 determines a project described in section 202(a)(1) and
25 (2) is feasible, the Secretary is authorized to carry out

1 the project in a manner that is substantially in accordance
2 with the recommended plan, and subject to the conditions
3 described in the feasibility study, provided that no Federal
4 funding shall be used to construct the project.

5 **TITLE III—WATER RIGHTS**
6 **PROTECTIONS**

7 **SEC. 301. OFFSET FOR STATE WATER PROJECT.**

8 (a) IMPLEMENTATION IMPACTS.—The Secretary of
9 the Interior shall confer with the California Department
10 of Fish and Wildlife in connection with the implementa-
11 tion of this title on potential impacts to any consistency
12 determination for operations of the State Water Project
13 issued pursuant to California Fish and Game Code section
14 2080.1.

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

18 (1) revokes the consistency determinations pur-
19 suant to California Fish and Game Code section
20 2080.1 that are applicable to the State Water
21 Project;

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

1 State Water Project as compared with the water
2 supply available under the smelt biological opinion
3 and the salmonid biological opinion; or

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

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

1 **SEC. 302. 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 through 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 title 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 **SEC. 303. NO REDIRECTED ADVERSE IMPACTS.**

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

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

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

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

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

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

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

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

11 **SEC. 304. ALLOCATIONS FOR SACRAMENTO VALLEY CON-**
12 **TRACTORS.**

13 (a) ALLOCATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (e) DEFINITIONS.—In this section:

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

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

15 **SEC. 305. EFFECT ON EXISTING OBLIGATIONS.**

16 Nothing in this title preempts or modifies any exist-
17 ing obligation of the United States under Federal reclama-
18 tion law to operate the Central Valley Project in con-
19 formity with State law, including established water rights
20 priorities.

21 **TITLE IV—MISCELLANEOUS**

22 **SEC. 401. WATER SUPPLY ACCOUNTING.**

23 (a) IN GENERAL.—All Central Valley Project water,
24 except Central Valley Project water released pursuant to
25 U.S. Department of the Interior Record of Decision, Trin-

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

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

20 **SEC. 402. OPERATIONS OF THE TRINITY RIVER DIVISION.**

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

1 Mainstem Fishery Restoration Final Environmental Im-
2 pact Statement/Environmental Impact Report dated De-
3 cember 2000.

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

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

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

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

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

14 **SEC. 403. REPORT ON RESULTS OF WATER USAGE.**

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

22 **SEC. 404. KLAMATH PROJECT CONSULTATION APPLICANTS.**

23 If the Bureau of Reclamation initiates or reinitiates
24 consultation with the U.S. Fish and Wildlife Service or
25 the National Marine Fisheries Service under section

1 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C.
2 1536(a)(2)), with respect to construction or operation of
3 the Klamath Project (or any part thereof), Klamath
4 Project contractors shall be accorded all the rights and
5 responsibilities extended to applicants in the consultation
6 process. Upon request of the Klamath Project contractors,
7 they may be represented through an association or organi-
8 zation.

9 **SEC. 405. LOSSES CAUSED BY THE CONSTRUCTION AND OP-**
10 **ERATION OF STORAGE PROJECTS.**

11 (a) MARINAS, RECREATIONAL FACILITIES, OTHER
12 BUSINESSES.—If in constructing any new or modified
13 water storage project included in section 103(d)(1)(A) of
14 Public Law 108–361 (118 Stat. 1684), the Bureau of Rec-
15 lamation destroys or otherwise adversely affects any exist-
16 ing marina, recreational facility, or other water-dependent
17 business when constructing or operating a new or modified
18 water storage project, the Secretaries of the Interior and
19 Agriculture, acting through the Bureau and the Forest
20 Service shall—

- 21 (1) provide compensation otherwise required by
22 law; and
23 (2) provide the owner of the affected marina,
24 recreational facility, or other water-dependent busi-
25 ness under mutually agreeable terms and conditions

1 with the right of first refusal to construct and oper-
2 ate a replacement marina, recreational facility, or
3 other water-dependent business, as the case may be,
4 on United States land associated with the new or
5 modified water storage project.

6 (b) HYDROELECTRIC PROJECTS.—If in constructing
7 any new or modified water storage project included in sec-
8 tion 103(d)(1)(A) of Public Law 108–361 (118 Stat.
9 1684), the Bureau of Reclamation reduces or eliminates
10 the capacity or generation of any existing non-Federal hy-
11 droelectric project by inundation or otherwise, the Sec-
12 retary of the Interior shall—

13 (1) provide compensation otherwise required by
14 law;

15 (2) provide the owner of the affected hydro-
16 electric project under mutually agreeable terms and
17 conditions with a right of first refusal to construct,
18 operate, and maintain replacement hydroelectric
19 generating facilities at such new or modified water
20 storage project, on federal land associated with the
21 new or modified water storage project or on private
22 land owned by the affected hydroelectric project
23 owner;

24 (3) provide compensation for the construction
25 of any water conveyance facilities as are necessary to

1 convey water to any new powerhouse constructed by
2 such owner in association with such new hydro-
3 electric generating facilities; and

4 (4) provide for subsections (b)(1), (2), and (3)
5 at a cost not to exceed the estimated value of the
6 actual impacts to any existing non-Federal hydro-
7 electric project and as estimated for the associated
8 feasibility study, including additional planning, envi-
9 ronmental, design, construction, and operations and
10 maintenance costs for existing and replacement fa-
11 cilities.

12 (c) COST ALLOCATION.—Any compensation under
13 this section shall be a project cost and allocated to project
14 beneficiaries.

15 (d) APPLICABILITY.—This section shall only apply to
16 federally owned water storage projects, whether authorized
17 under this Act or some other authority.

18 (e) LIMITATION.—Nothing in this section affects the
19 ability of landowners or tribes to seek compensation or any
20 other remedy otherwise required by law.

21 **SEC. 406. CA STATE WATER RESOURCES CONTROL BOARD.**

22 (a) IN GENERAL.—In carrying out this Act, the Sec-
23 retaries shall—

24 (1) recognize Congressional opposition to the
25 violation of private property rights by the California

1 State Water Resources Control Board in their pro-
2 posal to require a minimum percentage of
3 unimpaired flows in the main tributaries of the San
4 Joaquin River; and

5 (2) recognize the need to provide reliable water
6 supplies to municipal, industrial, and agricultural
7 users across the State.

8 **TITLE V—WATER SUPPLY**
9 **PERMITTING ACT**

10 **SEC. 501. SHORT TITLE.**

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

13 **SEC. 502. DEFINITIONS.**

14 In this title:

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

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

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

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

3 (4) COOPERATING AGENCIES.—The term “co-
4 operating agency” means a Federal agency with ju-
5 risdiction over a review, analysis, opinion, statement,
6 permit, license, or other approval or decision re-
7 quired for a qualifying project under applicable Fed-
8 eral laws and regulations, or a State agency subject
9 to section 503(c).

10 **SEC. 503. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
11 **ATING AGENCIES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 **SEC. 504. BUREAU RESPONSIBILITIES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 authorizing documents, and shall be responsible for
2 ensuring fulfillment of all Bureau responsibilities set
3 forth in this section and all cooperating agency re-
4 sponsibilities under section 505.

5 **SEC. 505. COOPERATING AGENCY RESPONSIBILITIES.**

6 (a) ADHERENCE TO BUREAU SCHEDULE.—Upon no-
7 tification of an application for a qualifying project, all co-
8 operating agencies shall submit to the Bureau a timeframe
9 under which the cooperating agency reasonably considers
10 it will be able to complete its authorizing responsibilities.
11 The Bureau shall use the timeframe submitted under this
12 subsection to establish the project schedule under section
13 504, and the cooperating agencies shall adhere to the
14 project schedule established by the Bureau.

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

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

1 **SEC. 506. FUNDING TO PROCESS PERMITS.**

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

7 (b) EFFECT ON PERMITTING.—

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

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

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

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

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

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

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

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

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

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

4 **SEC. 601. SHORT TITLE.**

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

7 **SEC. 602. DEFINITIONS.**

8 In this title:

9 (1) ENVIRONMENTAL IMPACT STATEMENT.—

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

15 (2) ENVIRONMENTAL REVIEW PROCESS.—

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

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

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

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

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

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

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

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

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

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

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

21 **SEC. 603. ACCELERATION OF STUDIES.**

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

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

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

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

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

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

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

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

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

1 (c) EXCEPTION.—

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

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

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

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

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

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

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

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

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

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

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

23 (2) convene a meeting of all Federal, tribal, and
24 State agencies identified under section 605(d) that
25 may—

1 (A) have jurisdiction over the project;

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

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

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

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

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

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

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

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

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

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

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

21 **SEC. 604. EXPEDITED COMPLETION OF REPORTS.**

22 The Secretary shall—

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

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

7 **SEC. 605. PROJECT ACCELERATION.**

8 (a) APPLICABILITY.—

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

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

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

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

1 determines there is a demonstrable Federal in-
2 terest and the project—

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

6 (ii) will create additional water sup-
7 plies that support Bureau of Reclamation
8 water projects; or

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

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

18 (3) LIST OF PROJECT STUDIES.—

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

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

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

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

9 (b) PROJECT REVIEW PROCESS.—

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

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

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

1 retary, in consultation and concurrence with the
2 agencies identified under section 705(d), establishes
3 with respect to the project study.

4 (c) LEAD AGENCIES.—

5 (1) JOINT LEAD AGENCIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (d) PARTICIPATING AND COOPERATING AGENCIES.—

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

23 (A) have jurisdiction over the project;

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

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

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

13 (A) have jurisdiction over the project;

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

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

20 (3) INVITATION.—

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

1 the environmental review process for the project
2 study.

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

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

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

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

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

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

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

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

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

12 (A) supports a proposed project; or

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

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

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

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

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

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

21 (g) PROGRAMMATIC COMPLIANCE.—

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

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

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

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

10 (D) complies with—

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

13 (ii) all other applicable laws.

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

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

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

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

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

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

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

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

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

21 (iii) describe—

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

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

11 (h) COORDINATED REVIEWS.—

12 (1) COORDINATION PLAN.—

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

22 (B) SCHEDULE.—

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

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

11 (ii) **FACTORS FOR CONSIDERATION.**—
12 In establishing a schedule, the Secretary
13 shall consider factors such as—

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

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

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

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

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

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

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

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

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

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

21 (II) made available to the public.

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

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

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

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

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

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

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

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

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

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

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

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

6 (5) TRANSPARENCY REPORTING.—

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

20 (B) PROJECT STUDY TRANSPARENCY.—

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

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

3 (i) ISSUE IDENTIFICATION AND RESOLUTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (5) FINANCIAL PENALTY PROVISIONS.—

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

9 (B) FAILURE TO DECIDE.—

10 (i) IN GENERAL.—

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

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

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

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

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

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

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

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

14 (C) LIMITATIONS.—

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

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

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

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

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

25 (i) the decision;

- 1 (ii) the project study involved;
- 2 (iii) the amount of each transfer
- 3 under subparagraph (B) in that fiscal year
- 4 relating to the decision;
- 5 (iv) the total amount of all transfers
- 6 under subparagraph (B) in that fiscal year
- 7 relating to the decision; and
- 8 (v) the total amount of all transfers of
- 9 the agency under subparagraph (B) in that
- 10 fiscal year.

11 (E) NO FAULT OF AGENCY.—

12 (i) IN GENERAL.—A transfer of funds

13 under this paragraph shall not be made if

14 the applicable agency described in subpara-

15 graph (A) notifies, with a supporting ex-

16 planation, the Federal lead agency, cooper-

17 ating agencies, and project sponsor, as ap-

18 plicable, that—

19 (I) the agency has not received

20 necessary information or approvals

21 from another entity in a manner that

22 affects the ability of the agency to

23 meet any requirements under Federal,

24 State, or local law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (B) any other Federal environmental law;

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

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

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

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

3 (I) TIMING OF CLAIMS.—

4 (1) TIMING.—

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

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

22 (2) NEW INFORMATION.—

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

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

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

16 (m) CATEGORICAL EXCLUSIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) project delivery;

16 (B) compliance with environmental laws;

17 and

18 (C) the environmental impact of projects.

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

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

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

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

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

19 **SEC. 606. 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 VII—ACCELERATED REV-**
10 **ENUE, REPAYMENT, AND SUR-**
11 **FACE WATER STORAGE EN-**
12 **HANCEMENT**

13 **SEC. 701. SHORT TITLE.**

14 This title may be cited as the “Accelerated Revenue,
15 Repayment, and Surface Water Storage Enhancement
16 Act”.

17 **SEC. 702. PREPAYMENT OF CERTAIN REPAYMENT CON-**
18 **TRACTS BETWEEN THE UNITED STATES AND**
19 **CONTRACTORS OF FEDERALLY DEVELOPED**
20 **WATER SUPPLIES.**

21 (a) CONVERSION AND PREPAYMENT OF CON-
22 TRACTS.—

23 (1) CONVERSION.—Upon request of the con-
24 tractor, the Secretary of the Interior shall convert
25 any water service contract in effect on the date of

1 enactment of this Act and between the United
2 States and a water users' association to allow for
3 prepayment of the repayment contract pursuant to
4 paragraph (2) under mutually agreeable terms and
5 conditions. The manner of conversion under this
6 paragraph shall be as follows:

7 (A) Water service contracts that were en-
8 tered into under section 9(e) of the Act of Au-
9 gust 4, 1939 (53 Stat. 1196), to be converted
10 under this section shall be converted to repay-
11 ment contracts under section 9(d) of that Act
12 (53 Stat. 1195).

13 (B) Water service contracts that were en-
14 tered under subsection (c)(2) of section 9 of the
15 Act of August 4, 1939 (53 Stat. 1194), to be
16 converted under this section shall be converted
17 to a contract under subsection (c)(1) of section
18 9 of that Act (53 Stat. 1195).

19 (2) PREPAYMENT.—Except for those repayment
20 contracts under which the contractor has previously
21 negotiated for prepayment, all repayment contracts
22 under section 9(d) of that Act (53 Stat. 1195) in ef-
23 fect on the date of enactment of this Act at the re-
24 quest of the contractor, and all contracts converted
25 pursuant to paragraph (1)(A) shall—

1 (A) provide for the repayment, either in
2 lump sum or by accelerated prepayment, of the
3 remaining construction costs identified in water
4 project specific irrigation rate repayment sched-
5 ules, as adjusted to reflect payment not re-
6 flected in such schedule, and properly assign-
7 able for ultimate return by the contractor, or if
8 made in approximately equal installments, no
9 later than 3 years after the effective date of the
10 repayment contract, such amount to be dis-
11 counted by $\frac{1}{2}$ the Treasury rate. An estimate
12 of the remaining construction costs, as ad-
13 justed, shall be provided by the Secretary to the
14 contractor no later than 90 days following re-
15 ceipt of request of the contractor;

16 (B) require that construction costs or
17 other capitalized costs incurred after the effec-
18 tive date of the contract or not reflected in the
19 rate schedule referenced in subparagraph (A),
20 and properly assignable to such contractor shall
21 be repaid in not more than 5 years after notifi-
22 cation of the allocation if such amount is a re-
23 sult of a collective annual allocation of capital
24 costs to the contractors exercising contract con-
25 versation under this subsection of less than

1 \$5,000,000. If such amount is \$5,000,000 or
2 greater, such cost shall be repaid as provided by
3 applicable reclamation law;

4 (C) provide that power revenues will not be
5 available to aid in repayment of construction
6 costs allocated to irrigation under the contract;
7 and

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

12 (3) CONTRACT REQUIREMENTS.—Except for
13 those repayment contracts under which the con-
14 tractor has previously negotiated for prepayment,
15 the following shall apply with regard to all repay-
16 ment contracts under subsection (c)(1) of section 9
17 of that Act (53 Stat. 1195) in effect on the date of
18 enactment of this Act at the request of the con-
19 tractor, and all contracts converted pursuant to
20 paragraph (1)(B):

21 (A) Provide for the repayment in lump
22 sum of the remaining construction costs identi-
23 fied in water project specific municipal and in-
24 dustrial rate repayment schedules, as adjusted
25 to reflect payments not reflected in such sched-

1 ule, and properly assignable for ultimate return
2 by the contractor. An estimate of the remaining
3 construction costs, as adjusted, shall be pro-
4 vided by the Secretary to the contractor no
5 later than 90 days after receipt of request of
6 contractor.

7 (B) The contract shall require that con-
8 struction costs or other capitalized costs in-
9 curred after the effective date of the contract or
10 not reflected in the rate schedule referenced in
11 subparagraph (A), and properly assignable to
12 such contractor, shall be repaid in not more
13 than 5 years after notification of the allocation
14 if such amount is a result of a collective annual
15 allocation of capital costs to the contractors ex-
16 ercising contract conversation under this sub-
17 section of less than \$5,000,000. If such amount
18 is \$5,000,000 or greater, such cost shall be re-
19 paid as provided by applicable reclamation law.

20 (C) Continue so long as the contractor
21 pays applicable charges, consistent with section
22 9(e)(1) of the Act of August 4, 1939 (53 Stat.
23 1195), and applicable law.

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

1 (A) not be adjusted on the basis of the
2 type of prepayment financing used by the water
3 users' association;

4 (B) conform to any other agreements, such
5 as applicable settlement agreements and new
6 constructed appurtenant facilities; and

7 (C) not modify other water service, repay-
8 ment, exchange and transfer contractual rights
9 between the water users' association, and the
10 Bureau of Reclamation, or any rights, obliga-
11 tions, or relationships of the water users' asso-
12 ciation and their landowners as provided under
13 State law.

14 (b) ACCOUNTING.—The amounts paid pursuant to
15 subsection (a) shall be subject to adjustment following a
16 final cost allocation by the Secretary of the Interior. In
17 the event that the final cost allocation indicates that the
18 costs properly assignable to the contractor are greater
19 than what has been paid by the contractor, the contractor
20 shall be obligated to pay the remaining allocated costs.
21 The term of such additional repayment contract shall be
22 not less than one year and not more than 10 years, how-
23 ever, mutually agreeable provisions regarding the rate of
24 repayment of such amount may be developed by the par-
25 ties. In the event that the final cost allocation indicates

1 that the costs properly assignable to the contractor are
2 less than what the contractor has paid, the Secretary shall
3 credit such overpayment as an offset against any out-
4 standing or future obligation of the contractor.

5 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

6 (1) EFFECT OF EXISTING LAW.—Upon a con-
7 tractor's compliance with and discharge of the obli-
8 gation of repayment of the construction costs pursu-
9 ant to a contract entered into pursuant to subsection
10 (a)(2)(A), subsections (a) and (b) of section 213 of
11 the Reclamation Reform Act of 1982 (96 Stat.
12 1269) shall apply to affected lands.

13 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
14 ligation of a contractor to repay construction costs
15 or other capitalized costs described in subsection
16 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
17 tractor's status as having repaid all of the construc-
18 tion costs assignable to the contractor or the appli-
19 cability of subsections (a) and (b) of section 213 of
20 the Reclamation Reform Act of 1982 (96 Stat.
21 1269) once the amount required to be paid by the
22 contractor under the repayment contract entered
23 into pursuant to subsection (a)(2)(A) have been
24 paid.

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

3 (1) the repayment obligation of any water serv-
4 ice or repayment contractor receiving water from the
5 same water project, or shift any costs that would
6 otherwise have been properly assignable to the water
7 users' association identified in subsections (a)(1),
8 (a)(2), and (a)(3) absent this section, including op-
9 eration and maintenance costs, construction costs, or
10 other capitalized costs incurred after the date of the
11 enactment of this Act, or to other contractors; and

12 (2) specific requirements for the disposition of
13 amounts received as repayments by the Secretary
14 under the Act of June 17, 1902 (32 Stat. 388, chap-
15 ter 1093), and Acts supplemental to and amend-
16 atory of that Act (43 U.S.C. 371 et seq.).

17 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-
18 GRAM.—

19 (1) IN GENERAL.—Except as provided in sub-
20 section (d)(2), three years following the date of en-
21 actment of this Act, 50 percent of receipts generated
22 from prepayment of contracts under this section be-
23 yond amounts necessary to cover the amount of re-
24 ceipts forgone from scheduled payments under cur-
25 rent law for the 10-year period following the date of

1 enactment of this Act shall be directed to the Rec-
2 lamation Surface Water Storage Account under
3 paragraph (2).

4 (2) SURFACE STORAGE ACCOUNT.—The Sec-
5 retary shall allocate amounts collected under para-
6 graph (1) into the “Reclamation Surface Storage
7 Account” to fund the construction of surface water
8 storage. The Secretary may also enter into coopera-
9 tive agreements with water users’ associations for
10 the construction of surface water storage and
11 amounts within the Surface Storage Account may be
12 used to fund such construction. Surface water stor-
13 age projects that are otherwise not federally author-
14 ized shall not be considered Federal facilities as a
15 result of any amounts allocated from the Surface
16 Storage Account for part or all of such facilities.

17 (3) REPAYMENT.—Amounts used for surface
18 water storage construction from the Account shall be
19 fully reimbursed to the Account consistent with the
20 requirements under Federal reclamation law (the
21 law (the Act of June 17, 1902 (32 Stat. 388, chap-
22 ter 1093))), and Acts supplemental to and amend-
23 atory of that Act (43 U.S.C. 371 et seq.) except that
24 all funds reimbursed shall be deposited in the Ac-
25 count established under paragraph (2).

1 (4) AVAILABILITY OF AMOUNTS.—Amounts de-
2 posited in the Account under this subsection shall—

3 (A) be made available in accordance with
4 this section, subject to appropriation; and

5 (B) be in addition to amounts appropriated
6 for such purposes under any other provision of
7 law.

8 (5) PURPOSES OF SURFACE WATER STORAGE.—
9 Construction of surface water storage under this sec-
10 tion shall be made for the following purposes:

11 (A) Increased municipal and industrial
12 water supply.

13 (B) Agricultural floodwater, erosion, and
14 sedimentation reduction.

15 (C) Agricultural drainage improvements.

16 (D) Agricultural irrigation.

17 (E) Increased recreation opportunities.

18 (F) Reduced adverse impacts to fish and
19 wildlife from water storage or diversion projects
20 within watersheds associated with water storage
21 projects funded under this section.

22 (G) Any other purposes consistent with
23 reclamation laws or other Federal law.

24 (f) DEFINITIONS.—For the purposes of this title, the
25 following definitions apply:

1 (1) ACCOUNT.—The term “Account” means the
2 Reclamation Surface Water Storage Account estab-
3 lished under subsection (e)(2).

4 (2) CONSTRUCTION.—The term “construction”
5 means the designing, materials engineering and test-
6 ing, surveying, and building of surface water storage
7 including additions to existing surface water storage
8 and construction of new surface water storage facili-
9 ties, exclusive of any Federal statutory or regulatory
10 obligations relating to any permit, review, approval,
11 or other such requirement.

12 (3) SURFACE WATER STORAGE.—The term
13 “surface water storage” means any federally owned
14 facility under the jurisdiction of the Bureau of Rec-
15 lamation or any non-Federal facility used for the
16 surface storage and supply of water resources.

17 (4) TREASURY RATE.—The term “Treasury
18 rate” means the 20-year Constant Maturity Treas-
19 ury (CMT) rate published by the United States De-
20 partment of the Treasury existing on the effective
21 date of the contract.

22 (5) WATER USERS’ ASSOCIATION.—The term
23 “water users’ association” means—

24 (A) an entity organized and recognized
25 under State laws that is eligible to enter into

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 VIII—SAFETY OF DAMS**

10 **SEC. 801. AUTHORIZATION OF ADDITIONAL PROJECT BENE-** 11 **FITS.**

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 and subject to the conditions de-
4 scribed 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 IX—WATER RIGHTS**
2 **PROTECTION**

3 **SEC. 901. SHORT TITLE.**

4 This title may be cited as the “Water Rights Protec-
5 tion Act”.

6 **SEC. 902. 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. 903. 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. 904. RECOGNITION OF STATE AUTHORITY.**

4 (a) IN GENERAL.—In carrying out section 903, 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. 905. 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.