

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “California Drought Relief Act of 2014”.

(b) Table of Contents.—The table of contents of this Act is as follows:

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Section 2. Findings

Congress finds that—

(1) Data on the difference between water demand and reliable water supplies for various regions south of the Delta, including the San Joaquin Valley, indicate there is a significant annual gap between reliable water supplies to meet agricultural, municipal and industrial, groundwater, and refuges water needs within the South of Delta and Friant Division of the Central Valley Project and the State Water Project south of the Sacramento-San Joaquin River Delta and north of the Tehachapi mountain range and the demands of those areas. This gap varies depending on the methodology of the analysis performed, but can be represented in the following ways:

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

(B) For Central Valley Project and State Water Project water service contractors south of the Delta and north of the Tehachapi mountain range, if it is assumed that a water supply deficit is the difference between reliable water supplies, including maximum water contract deliveries, safe yield of groundwater, safe yield of local and surface supplies and long-term contracted water transfers, and water demands, including water demands from agriculture, municipal and industrial and refuge contractors, then the water supply deficit ranges between approximately 2,500,000 to 2,700,000 acre-feet.

(B) .

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

(3) Data of field sampling activities of the Interagency Ecological Program located in the Sacramento-San Joaquin Estuary identifies that, on average from 2005 to 2013, the program “takes” 3,500 delta smelt during annual surveys with an authorized “take” level of 33,480 delta smelt annually – according to the biological opinion issued December 9, 1997.

(4) It is worth exploring whether there is a way to implement the biological opinions that would preserve the protections afforded listed fish and simultaneously increase water deliveries to the Central Valley Project and State Water Project without weakening environmental laws or protections.

(5) In 2014, better information exists than was known in 2008 concerning conditions and operations that may or may not lead to high salvage events that jeopardize the fish populations, and what alternative management actions can be taken to avoid jeopardy.

(6) Alternative management strategies, such as trapping and barging juvenile salmon through the Delta, removing non-native species, enhancing habitat, monitoring fish movement and location in real-time, and improving water quality in the Delta can contribute significantly to protecting and recovering these endangered fish species, and at potentially lower costs to water supplies.

(7) Resolution of fundamental policy questions concerning the extent to which application of the Endangered Species Act affects the operation of the Central Valley Project and State Water Project is the responsibility of Congress.

SEC. 3. DEFINITIONS.

In this Act:

- (1) DELTA.—The term “Delta” means the Sacramento-San Joaquin Delta and the Suisun Marsh, as defined in sections 12220 and 29101 of the California Public Resources Code.
- (2) Export Pumping Rates.—The term “export pumping rates” means the rates of pumping at the C.W. “Bill” Jones Pumping Plant and the Harvey O. Banks Pumping Plant, in the southern Delta.
- (3) LISTED FISH SPECIES.—The term “listed fish species” means listed salmonid species and the Delta smelt.
- (4) LISTED SALMONID SPECIES.—The term “listed salmonid species” means natural origin steelhead, natural origin genetic spring run Chinook, and genetic winter run Chinook salmon including hatchery steelhead or salmon populations within the evolutionary significant unit (ESU) or distinct population segment (DPS).
- (5) NEGATIVE IMPACT ON THE LONG-TERM SURVIVAL.—The term “negative impact on the long-term survival” means to reduce appreciably the likelihood of the survival of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.
- (6) OMR.—The term “OMR” means the Old and Middle River in the Delta.
- (7) OMR FLOW OF -5000 CFS.—The term “OMR flow of -5000 cfs” means Old and Middle River flow of negative 5,000 cubic feet per second as described in —
- (A) the smelt biological opinion; and
 - (B) the salmonid biological opinion.
- (8) SALMONID BIOLOGICAL OPINION.—The term “salmonid biological opinion” means the biological opinion issued by the National Marine Fisheries Service on June 4, 2009.
- (9) SMELT BIOLOGICAL OPINION.—The term “smelt biological opinion” means the biological opinion on the Long-Term Operational Criteria and Plan for coordination of the Central Valley Project and State Water Project issued by the United States Fish and Wildlife Service on December 15, 2008.
- (10) STATE.—The term “State” means the State of California.

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

SEC. 101. DEFINITIONS.

In this title:

- (1) DIRECTOR.—The term “Director” means the Director of the United States Fish and Wildlife Service.
- (2) DELTA SMELT.—The term “Delta smelt” means the fish species with the scientific name *Hypomesus transpacificus*.
- (3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 102. REVISE INCIDENTAL TAKE LEVEL CALCULATION FOR DELTA SMELT TO REFLECT NEW SCIENCE.

(a) No later than October 1, 2016, and at least every five years thereafter, the Director of Fish and Wildlife Service, in cooperation with other federal, state, and local agencies, shall use the best scientific and commercial data available to complete a review and, modify the method used to calculate the incidental take levels for adult and larval/juvenile Delta smelt in the smelt biological opinion that takes into account all life stages, among other considerations,—

- (1) salvage information collected since at least 1993;
- (2) updated or more recently developed statistical models;
- (3) updated scientific and commercial data; and
- (4) the most recent information regarding the environmental factors driving Delta smelt salvage.

(b) Modified Incidental Take Level.—Unless the Director determines in writing that one or more of the requirements described in paragraphs (1) through (4) below are not appropriate, the modified incidental take level described in subsection (a) shall—

- (1) Be normalized for the abundance of prespawning adult Delta smelt using the Fall Midwater Trawl Index or other index;
- (2) Be based on a simulation of the salvage that would have occurred from 1993 through 2012 if OMR flow has been consistent with the smelt biological opinions;
- (3) Base the simulation on a correlation between annual salvage rates and historic water clarity and OMR flow during the adult salvage period; and
- (4) Set the incidental take level as the 80 percent upper prediction interval derived from simulated salvage rates since at least 1993;

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

(a) In General.—The Director shall use the best scientific and commercial data available to implement, continuously evaluate, and refine or amend, as appropriate, the reasonable and prudent alternative described in the smelt biological opinion, and any successor opinions or court order. The Secretary shall make all significant decisions that implement the smelt biological opinion, or any successor opinions, in writing, and shall document the significant facts upon which such decisions are made, consistent with Section 706 of Title 5 of the United States Code.

(b) Increased Monitoring to Inform Real-time Operations— The Secretary shall conduct additional surveys, on an annual basis at the appropriate time of the year based on environmental conditions, in collaboration with other Delta science interests.

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

(A) use the most accurate survey methods available for the detection of Delta smelt to determine the extent that adult Delta smelt are distributed in relation to certain levels of turbidity, or other environmental factors that may influence salvage rate; and

(B) use results from appropriate survey methods for the detection of Delta smelt to determine how the Central Valley Project and State Water Project may be operated more efficiently to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long term survival of the Delta smelt.

(2) During the period beginning on December 1, 2015 and ending March 31, 2016, and in each successive December through March period, if suspended sediment loads enter the Delta from the Sacramento River and the suspended sediment loads appear likely to raise turbidity levels in Old River north of the export pumps from values below 12 Nephelometric Turbidity Units (NTU) to values above 12 NTU, the Secretary shall—

(A) conduct daily monitoring using appropriate survey methods at locations including, but not limited to, the vicinity of Station 902 to determine the extent that adult Delta smelt are moving with turbidity toward the export pumps; and

(B) use results from the monitoring surveys referenced in paragraph (A) to determine how increased trawling can inform daily real-time Central Valley Project and State Water Project operations to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of the Delta smelt.

(c) Periodic Review of Monitoring.—Within twelve months of the date of enactment of this title, and at least once every 5 years thereafter, , the Secretary shall—

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

(2) determine whether the monitoring efforts should be changed in the short- or long-term to provide more useful data.

(d) Delta Smelt Distribution Study.—

(1) IN GENERAL.— No later than January 1, 2016, and at least every five years thereafter, the Secretary, in collaboration with the California Department of Fish and Wildlife, the California Department of Water Resources, public water agencies, and other interested entities, shall implement new targeted sampling and monitoring specifically designed to understand Delta smelt abundance, distribution, and the types of habitat occupied by Delta smelt during all life stages.

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

(A) include recording water quality and tidal data;

(B) be designed to understand Delta smelt abundance, distribution, habitat use, and movement throughout the Delta, Suisun Marsh, and other areas occupied by the Delta smelt during all seasons;

(C) consider areas not routinely sampled by existing monitoring programs, including wetland channels, near-shore water, depths below 35 feet, and shallow-water; and

(D) use survey methods, including sampling gear, best suited to collect the most accurate data for the type of sampling or monitoring.

(e) Scientifically supported implementation of Old and Middle River flow requirements.—In implementing the provisions of the smelt biological opinion, or any successor biological opinion, pertaining to management of reverse flow in the Old and Middle Rivers, the Secretary shall—

(1) consider the relevant provisions of the biological opinion or any successor biological opinion;

(2) manage reverse flow in Old and Middle Rivers as prescribed by the smelt biological opinion, or any successor biological opinion or court order, to maximize water supply for the Central Valley Project and the State Water Project by establishing OMR flow at -5,000 cfs unless information developed by the Secretary under paragraphs (3) and (4) leads the Secretary to reasonably conclude that less negative OMR flows are necessary to avoid a significant negative impact on the long-term survival of the Delta smelt. Water supplies for the Central Valley Project and the State Water Project may be increased if information available to the Secretary indicates that pumping levels more negative than -5,000 cubic feet per second can be established without an imminent and significant negative impact on the long-term survival of the Delta smelt;

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

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

(B) whether near-term forecasts with available salvage models show under prevailing conditions that OMR flow of -5000 cubic feet per second or higher will cause a significant negative impact on the long-term survival of the Delta smelt; and

(4) show in writing that any determination to manage OMR reverse flow at rates less negative than -5000 cubic feet per second is necessary to avoid a significant negative impact on the long-term survival of the Delta smelt, including an explanation of the data examined and the connection between those data and the choice made, after considering:

(A) whether continued project operations over the remainder of the water year would exceed the incidental take level;

(B) the potential effects of documented, quantified entrainment on subsequent smelt abundance, including consideration of the distribution of the population throughout the Delta,

(C) the water temperature,

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

(E) whether any alternative measures could have a substantially lesser water supply impact.

(4) for any subsequent biological opinion, make the showing required in paragraph (5) for any determination to manage OMR reverse flow at rates less negative than the upper limit in the biological opinion if the upper limit in the biological opinion is more negative than -5,000 cubic feet per second.

(f) Memorandum of Understanding. No later than December 1, 2015, the Commissioner and the Director will execute a Memorandum of Understanding (MOU) to ensure that the smelt biological opinion is implemented in a manner that maximizes water supply while complying with applicable laws and regulations. If that MOU alters any procedures set out in the biological opinion, there will be no need to reinstate consultation if those changes do not have a significant negative impact on the long-term survival on listed species and the implementation of the MOU would not be a major change to implementation of the biological opinion. Any change to procedures that does not create a significant negative impact on the long-term survival to listed species will not alter application of the take permitted by the incidental take statement in the biological opinion under the Endangered Species Act, section 7(o)(2).

(g) Calculation of Reverse Flow in OMR.—Within 90 days of the enactment of this title, the Secretary is directed, in consultation with the California Department of Water Resources to revise the method used to calculate reverse flow in Old and Middle Rivers for implementation of the reasonable and prudent alternatives in the smelt biological opinion and the salmonid biological opinion, and any succeeding biological opinions, for the purpose of increasing Central Valley Project and State Water Project water supplies. The method of calculating reverse flow in Old and Middle Rivers shall be reevaluated not less than every five years thereafter to achieve maximum export pumping rates within limits established by the smelt biological opinion, the salmonid biological opinion, and any succeeding biological opinions.

TITLE II—ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE

SEC. 201. DEFINITIONS.

In this title:

(1) ASSISTANT ADMINISTRATOR.—The term “Assistant Administrator” means the Assistant Administrator of NOAA Fisheries.

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

(3) Other Affected Interests. — The term “other affected interests” means the State of California, subdivisions of the State of California, public water agencies and those who benefit directly and indirectly from the operations of the Central Valley Project and the State Water Project.

(4) Commissioner.—The term “Commissioner” means the Commissioner of the Bureau of Reclamation.

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

SEC. 202. REQUIRED SCIENTIFIC STUDIES.

(a) Trap and Barge Pilot Project to Increase Survivals Through the Delta.—The Assistant Administrator and the Commissioner shall, in collaboration with the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife, public water agencies, and other interested parties, design, permit, implement and evaluate a pilot program to test the efficacy of an experimental trap and barge program to improve survival of juvenile salmonids emigrating from the San Joaquin watershed through the Delta, as further described below.

(1) Within 30 days of enactment, the Assistant Administrator shall convene a working group of the relevant agencies and other interested parties through which to develop and execute a plan for the design, budgeting, implementation and evaluation of such a pilot program, utilizing existing expertise on such trap and barge programs as may be available. Such plan shall detail a schedule and budget for the program, and identify the responsible parties for each element of the program.

(2) The Assistant Administrator shall provide an opportunity for 30 days of public review and comment on the pilot program and also simultaneously seek an expeditious independent peer review of the program to improve its rigor and likelihood of success.

(3) Within 60 days of completion of (2), above, the Assistant Administrator shall complete the necessary design and evaluations of the pilot program and seek such permits or other regulatory authorizations as

may be required under federal law for its prompt implementation and evaluation by the Assistant Administrator, the Commissioner or such other parties as they determine most suitable.

(4) The Assistant Administrator and the Commissioner shall seek to commence implementation of the pilot program in 2015 or as soon thereafter as is possible, and shall conduct such pilot for such period of time as needed to evaluate the efficacy of the program to improve survivals across a range of environmental conditions.

(5) The Assistant Administrator and the Commissioner shall jointly report annually to the Senate Environment and Public Works Committee and the House Committee on Natural Resources their progress in implementing this section, estimated survival rates through the Delta for both juvenile salmonids that were barged through the Delta and those that were not barged, and if survival rates are significantly higher for barged fish as compared to other outmigrating smolts, the Assistant Administrator's and Commissioner's recommendations regarding broadening the pilot program and any relevant recommendations pursuant to section 203.

(6) The pilot program is hereby found to be consistent with the requirements of the Central Valley Project Improvement Act (Public Law 102-575). No provision, plan or definition established or required by the Central Valley Project Improvement Act (Public Law 102-575) shall be used to prohibit the imposition of the pilot program, or to prevent the accomplishment of its goals.

(b) Tagging studies.

(1) IN GENERAL.—The Assistant Administrator, in collaboration with other Delta science partners, shall implement tagging studies, including acoustic telemetry and PIT tagging studies as appropriate, wherein habitat, predators, flow conditions, or other factors are experimentally altered and the behavior and survival of tagged juvenile salmonids are observed. Studies may also be conducted to aid in the understanding of Chinook salmon and steelhead abundance, distribution, and survival.

(2) SAMPLING.—The sampling—

(A) shall include recording water quality and tidal data;

(B) will be designed to aid in the understanding of salmonid abundance, distribution, and movements throughout the Bay Delta, including estimates of through Delta survival from Knights Landing or from Mossdale to Chipps Island; and

(C) will supplement, not supplant, ongoing acoustic tag and coded wire survival studies in the San Joaquin and Sacramento Rivers which the Assistant Administrator determines are crucial for trend monitoring.

(c) The Assistant Administrator shall accept and review recommendations from Central Valley Project and State Water Project service area water contractors on studies of other alternative management measures that may increase the survival of listed salmonid species.

SEC. 203. PROCESS FOR ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE.

(a) General directive. The reasonable and prudent alternative described in the salmonid biological opinion allows for and anticipates adjustments in project operation parameters to reflect the best scientific and commercial data currently available, and authorizes efforts to test and evaluate improvements in operations that will meet applicable regulatory requirements and maximize water supply reliability. Implementation of the reasonable and prudent alternative described in the salmonid biological opinion shall be adjusted accordingly as

new scientific and commercial data are developed. The Commissioner and the Assistant Administrator shall fully utilize these authorities as described below.

(b) Annual reviews of certain project operations. No later than December 31, 2016, and at least annually thereafter,

(1) The Commissioner, with the assistance of the Assistant Administrator, shall examine and identify adjustments to the initiation of Action IV.2.3 as set forth in the Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project, Endangered Species Act Section & Consultation issued by the National Marine Fisheries Service on June 4, 2009 pertaining to negative OMR flows, subject to paragraph (5).

(2) The Commissioner, with the assistance of the Assistant Administrator, shall examine and identify adjustments in the timing, triggers or other operational details relating to the implementation of pumping restrictions in Action IV.2.1 pertaining to the inflow to export requirements, subject to paragraph (5).

(3) Pursuant to the consultation and assessments carried out under paragraphs (1) and (2) of this subsection, the Commissioner and the Assistant Administrator shall jointly make recommendations to the Secretary of the Interior and to the Secretary of Commerce on adjustments to project operations that, in the exercise of the adaptive management provisions of the salmonid biological opinion, will reduce water supply impacts of the salmonid biological opinion on the Central Valley Project and the California State Water Project and are consistent with the requirements of applicable law and as further described in subsection (c).

(4) The Secretary of Commerce and the Secretary of the Interior shall direct the Commissioner and Assistant Administrator to implement recommended adjustments to project operations for which the conditions under subsection (c) are met.

(5) The Assistant Administrator and the Commissioner shall review and identify adjustments to project operations with water supply restrictions in any successor biological opinion to the salmonid biological opinion, applying the provisions of this section to those water supply restrictions where there are references to Actions IV.2.1 and IV.2.3.

(c) After reviewing the recommendations under subsection (b), the Secretary of the Interior and the Secretary of Commerce shall direct the Commissioner and the Assistant Administrator to implement those operational adjustments, or any combination, for which, in aggregate:

(1) the net effect on listed species is equivalent to those of the underlying project operational parameters in the salmonid biological opinion, taking into account both

(i) efforts to minimize the adverse effects of the adjustment to project operations; and

(ii) whatever additional actions or measures may be implemented in conjunction with the adjustments to operations to offset the adverse effects to listed species, consistent with (d), that are in excess of the adverse effects of the underlying operational parameters, if any; and

(2) the effects of the adjustment can be reasonably expected to fall within the incidental take authorizations.

(d)

(3)(d) When examining and identifying opportunities to offset the potential adverse effect of adjustments to operations under subsection (c)(1)(ii), the Commissioner and the Assistant Administrator shall take into account the potential species survival improvements that are likely to result from other measures which, if implemented in conjunction with such adjustments, would offset adverse effects, if any, of the adjustments. When evaluating offsetting measures, the Commissioner and the Assistant Administrator shall consider the type, timing and nature of the adverse effects, if any, to specific species and ensure that the measures likely provide equivalent overall benefits to the listed species in the aggregate, as long as the change will not cause a significant negative impact on the long-term survival of a listed salmonid species.

(e) Framework for examining opportunities to minimize or offset the potential adverse effect of adjustments to operations.—Not later than December 31, 2015, and every five years thereafter, the Assistant Administrator

shall, in collaboration with the Director of the California Department of Fish and Wildlife, based on the best scientific and commercial data available and for each listed salmonid species, issue estimates of the increase in through-Delta survival the Secretary expects to be achieved—

(1) through restrictions on export pumping rates as specified by Action IV.2.3 as compared to limiting OMR flow to a fixed rate of -5000 cubic feet per second within the time period Action IV.2.3 is applicable, based on a given rate of San Joaquin River inflow to the Delta and holding other relevant factors constant;

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

(3) through a trap and barge program based on the experience of other systems to the extent they are comparable, and the study described in section 202, as that information becomes available;

(4) through physical habitat restoration improvements;

(5) through predation control programs;

(6) through the installation of temporary barriers, the management of Cross Channel Gates operations, and other projects affecting flow in the Delta;

(7) through salvaging fish that have been entrained near the entrance to Clifton Court Forebay;

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

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

(f) Survival estimates.

(1) To the maximum extent practicable, the Assistant Administrator shall make quantitative estimates of survival such as a range of percentage increases in through-Delta survival that could result from the management measures, and if the scientific information is lacking for quantitative estimates, shall do so on qualitative terms based upon the best available science.

(2) If the Assistant Administrator provides qualitative survival estimates for a species resulting from one or more management measures, the Secretary shall, to the maximum extent feasible, rank the management measures described in subsection (e) in terms of their most likely expected contribution to increased through-Delta survival relative to the other measures.

(3) If at the time the Assistant Administrator conducts the analysis under subsection (b), the Secretary has not issued an estimate of increased through-Delta survival from different management measures pursuant to subsection (e), the Secretary shall compare the protections to the species from different management measures based on the best scientific and commercial data available at the time.

(g) Comparison of adverse consequences for alternative management measures of equivalent protection for a species.—

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

(A) The alternative management measure or combination of alternative management measures identified in paragraph (2) shall be known as the “equivalent alternative measure.”

(B) The existing measure or measures identified in subparagraphs (2)(A),(B),(C), or (D) shall be known as the “equivalent existing measure.”

(C) An “equivalent increase in through-Delta survival rates for listed salmonid species” shall mean an increase in through-Delta survival rates that is equivalent when considering the change in through-Delta survival rates for the listed salmonid species in the aggregate, and not the same change for each individual species, as long as the change in survival rates will not cause a significant negative impact on the long-term survival of a listed salmonid species.

(2) As part of the reviews of project operations pursuant to subsection (b), the Assistant Administrator shall determine whether any alternative management measures or combination of alternative management measures listed in subsection (e)(3) through (8) would provide an increase in through-Delta survival rates for listed salmonid species that is equivalent to the increase in through-Delta survival rates for listed salmonid species from the following:

(A) through restrictions on export pumping rates as specified by Action IV.2.3, as compared to limiting OMR flow to a fixed rate of -5000 cubic feet per second within the time period Action IV.2.3 is applicable;

(B) through restrictions on export pumping rates as specified by Action IV.2.3, as compared to a modification of Action IV.2.3 that would provide additional water supplies, other than that described in subparagraph (A);

(C) through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1, as compared to the restrictions in the April/May period imposed by the State Water Resources Control Board decision D-1641, or

(D) through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1, as compared to a modification of Action IV.2.1 that would reduce water supply impacts of the salmonid biological opinion on the Central Valley Project and the California State Water Project, other than that described in subparagraph (C).

(3) If the Assistant Administrator identifies an equivalent alternative measure pursuant to paragraph (2), the Assistant Administrator shall determine whether

(A) it is technically feasible and within federal jurisdiction to implement the equivalent alternative measure

(B) the State of California, or subdivision thereof, or local agency with jurisdiction has certified in writing to the Assistant Administrator that it has the authority and capability to implement the pertinent equivalent alternative measure, or

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

(4) If the Assistant Administrator makes the findings in subparagraph (3)(A) or (3)(B), the Commissioner shall adjust project operations to implement the equivalent alternative measure in place of the equivalent existing measure in order to increase export rates of pumping to the greatest extent possible while maintaining a net combined effect of equivalent through-Delta survival rates for the listed salmonid species.

(h) Tracking adverse effects beyond the range of effects accounted for in the salmonid biological opinion and coordinated operation with the smelt biological opinion.

(1) Among the adjustments to the project operations considered through the adaptive management process under this section, the Assistant Administrator and the Commissioner shall

(A) Evaluate the effects on listed salmonid species and water supply of the potential adjustment to operational criteria described in subparagraph (B); and

(B) Consider requiring that before some or all of the provisions of Actions IV.2.1. or IV.2.3 are imposed in any specific instance, the Assistant Administrator show that the implementation of these provisions in that specific instance is necessary to avoid a significant negative impact on the long-term survival of a listed salmonid species.

(2) The Assistant Administrator, the Director and the Commissioner, in coordination with State officials as appropriate, shall establish operational criteria to coordinate management of OMR flows under the smelt and salmonid biological opinions, in order to take advantage of opportunities to provide additional water supplies from the coordinated implementation of the biological opinions.

(3) The Assistant Administrator and the Commissioner shall document the effects of any adaptive management decisions related to the coordinated operation of the smelt and salmonid biological opinions that prioritizes the maintenance of one species at the expense of the other.

- (i) Real-Time Monitoring and Management. The Assistant Administrator and the Commissioner shall, through the NMFS adaptive management salmonid biological opinion provisions, analyze whether date-certain triggers that limit OMR reverse flow to -5000 cubic feet per second could be adjusted to instead use real-time migration information on salmonids. If the analysis shows that the use of real-time information to trigger OMR flow limitations would improve water supply without causing a significant negative impact on the long-term survival of Winter-run Chinook salmon, then such real-time management triggers shall be implemented.
- (j) If the quantitative estimates of through-Delta survival established by the Secretary for the management measures in (b)(2) exceed the through-Delta survival established for the RPAs, the Secretary shall evaluate and implement the management measures in (b)(2) as a prerequisite to implementing the RPAs contained in the BiOps.
- (k) Consistent with Section 706 of Title 5 of the United States Code, decisions of the Assistant Administrator and the Commissioner described in paragraphs (b) through (j) of Section 203 shall be made in writing, on the basis of best scientific and commercial data currently available, and shall document the significant facts upon which such decisions are made.

SEC. 204. PILOT PROGRAM TO PROTECT NATIVE ANADROMOUS FISH IN THE STANISLAUS RIVER.

(a) ESTABLISHMENT OF NONNATIVE PREDATOR FISH REMOVAL PILOT PROGRAM.—The Secretary of Commerce and the districts, in consultation with the United States Fish and Wildlife Service, shall jointly develop and conduct a nonnative predator fish removal pilot program to remove nonnative striped bass, smallmouth bass, largemouth bass, black bass, and other nonnative predator fishes from the Stanislaus River, California. The pilot program shall—

- (1) be scientifically based;
- (2) include methods to quantify the number and size of predator fishes removed each year, the impact of such removal on the overall abundance of predator fishes, and the impact of such removal on the populations of juvenile anadromous fish found in the Stanislaus River by, among other things, evaluating the number of juvenile anadromous fish that migrate past the rotary screw trap located at Caswell;
- (3) among other methods, use wire fyke trapping, portable resistance board weirs, and boat electrofishing;
- (4) be developed, including the application for all necessary scientific research and species enhancement permits under section 10(a)(1) of the Endangered Species Act of 1973 (16 U.S.C.

1539(a)(1))for the performance of the pilot program, not later than 6 months after the date of the enactment of this Act;

(5) be implemented as quickly as possible following the issuance of all necessary scientific research and species enhancement permits needed to begin the pilot program; and

(6) be implemented for a period of 7 consecutive calendar years.

(b) MANAGEMENT.—The management of the pilot program shall be the joint responsibility of the Secretary and the districts. Such parties shall work collaboratively to ensure the performance of the pilot program, and shall discuss and agree upon, among other things, changes in the structure, management, personnel, techniques, strategy, data collection, reporting, and conduct of the pilot program.

(c) CONDUCT.—

(1) IN GENERAL.—By agreement between the Secretary and the districts, the pilot program may be conducted by their own personnel, qualified private contractors hired by the districts, personnel of, on loan to, or otherwise assigned to the National Marine Fisheries Service, or a combination thereof.

(2) PARTICIPATION BY THE NATIONAL MARINE FISHERIES SERVICE.—If the districts elect to conduct the program using their own personnel or qualified private contractors hired by them in accordance with paragraph (1), the Secretary may assign an employee of, on loan to, or otherwise assigned to the National Marine Fisheries Service, to be present for all activities performed in the field. Such presence shall ensure compliance with the agreed-upon elements specified in subsection (b). The districts shall pay the cost of such participation in accordance with subsection (d).

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

(d) FUNDING.—

(1) IN GENERAL.—The districts shall be responsible for 100 percent of the cost of the pilot program.

(2) CONTRIBUTED FUNDS.—The Secretary may accept and use contributions of funds from the districts to carry out activities under the pilot program.

(3) ESTIMATION OF COST.—On or before December 1 of each year of the pilot program, the Secretary shall submit to the districts an estimate of the cost to be incurred by the National Marine Fisheries Service for the pilot program in the following calendar year, if any, including the cost of any data collection and posting under subsection (e). If an amount equal to the estimate is not provided through contributions pursuant to paragraph (2) before December 31 of that year—

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

(B) the districts may not conduct any aspect of the pilot program until such amount is contributed by the districts.

(4) ACCOUNTING.—On or before September 1 of each year, the Secretary shall provide to the districts an accounting of the costs incurred by the Secretary for the pilot program in the preceding calendar year. If the amount contributed by the districts pursuant to paragraph (2) for that year was greater than the costs incurred by the Secretary, the Secretary shall—

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

(B) if no such activities are to be performed, repay the excess contribution to the districts.

(e) REPORTING AND EVALUATION.—

(1) IN GENERAL.—On or before the 15th day of each month, the Secretary shall post on the Internet website of the National Marine Fisheries Service a tabular summary of the raw data collected under the pilot program in the preceding month.

(2) REPORT.—On or before June 30 of the year following the completion of the pilot program, the Secretary and the districts shall jointly submit for peer review a report that—

(A) discusses the findings and conclusions of the pilot program;

(B) synthesizes the data collected under paragraph (1); and

(C) makes recommendations for further study and action.

(f) PERMITS PROCESS.—

(1) REQUIREMENT.—Not later than 180 days after the filing by the Secretary and the districts of an application for scientific research and species enhancement permits under section 10(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)) for the pilot program, the Secretary of the Interior, the Secretary of Commerce, or both, as appropriate, shall issue to the National Marine Fisheries Service and the districts all such permits that are necessary for the performance of the pilot program. Each such permit shall authorize activities under the permits to be carried out by the districts and by the National Marine Fisheries Service.

(2) DELEGATION OF AUTHORITY.—The districts and the Secretary may delegate the authority to conduct activities under such permits to any qualified private contractor retained in accordance with subsection (c).

(3) FAILURE TO ISSUE PERMITS.—The pilot program, including amendments thereto by the appropriate Federal agencies, shall constitute a conservation plan that complies with section 10(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(2)) if the Secretaries have not carried out paragraph (1) within 270 days after the filing of an application in accordance with such paragraph.

(4) TREATMENT OF STRIPED BASS.—For purposes of the application of the Central Valley Project Improvement Act (title III of Public Law 102–575) with respect to the pilot program, striped bass shall not be treated as anadromous fish.

(g) NEPA.—

(1) LIMITATION ON APPLICATION.—If the Secretaries have not carried out subsection (f)(1) within 365 days after the filing by the Secretary of Commerce and the districts of an application referred to in that subsection, section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to this section and the issuance of any permit under this section, during the 7-year period beginning on the date of the submission of such application.

(2) EMERGENCY ENVIRONMENTAL REVIEWS.—The Secretary of the Interior and the Secretary of Commerce shall consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (including successor regulations) to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as necessary to expedite the benefits of the pilot program for the conservation of threatened species and endangered species.

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

(1) DISTRICTS.—The term “districts” means the Oakdale Irrigation District and the South San Joaquin Irrigation District, California.

(2) PILOT PROGRAM.—The term “pilot program” means the nonnative predator fish removal pilot program established under this section.

(3) SECRETARY OF COMMERCE.—The term “Secretary of Commerce” means the Secretary of Commerce acting through the National Marine Fisheries Service.

(i) STATE LAW PREEMPTED.—

(1) IN GENERAL.—Any restriction imposed under California law on the catch, take, or harvest of any nonnative or introduced aquatic or terrestrial species that preys upon anadromous fish and that occupies or is found in the Stanislaus River, or the permitting thereof, is hereby void and is preempted.

(2) STATE PERMITS NOT REQUIRED.—Neither the districts nor the Secretaries are required to obtain a Scientific Collection Permit or any other permit or authorization from the California Department of Fish and Wildlife or any other division or instrumentality of the State of California pursuant to section 1002(a) of the California Fish and Game Code, section 5514(a) of the California Fish and Game Code, section 650 or title 14 of the California Code of Regulations, or any other provision of California law to implement any aspect of the pilot program.

(j) SUNSET.—The authorities provided under this section shall expire 7 years after date of the issuance of the permits referred to in subsection (f)(1).

TITLE III—OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

SEC. 301. FINDINGS.

Congress finds that—

(1) Based on the congressional findings in Sec. 2 of this Act, it is appropriate and necessary for federal agencies to exercise the maximum amount of flexibility provided to them under the applicable laws and regulations to maximize delivery of water supplies while providing substantially similar levels of protection for listed species.

SEC. 302. DEFINITIONS.

In this title:

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

(2) RECLAMATION PROJECT.—The term “Reclamation Project” means a project constructed pursuant to the authorities of the reclamation laws and whose facilities are wholly or partially located in the State.

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

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Agriculture;

(C) the Secretary of Commerce; and

(D) the Secretary of the Interior.

(4) STATE WATER PROJECT.—The term “State Water Project” means the water project described by California Water Code section 11550 et seq., and operated by the California Department of Water Resources.

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

SEC. 303. OPERATIONAL FLEXIBILITY IN TIMES OF DROUGHT.

(a) Water Supplies.—

(1) IN GENERAL.— For the period of time such that in any year that the Sacramento Valley Index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Secretaries shall provide the maximum quantity of water supplies practicable to all individuals or district

who receive Central Valley Project water under water service or repayments contracts, water rights settlement contracts or exchange contracts entered into prior to or after the date of enactment of this title; State Water Project contractors, and any other tribe, locality, water agency, or municipality in the State, by approving, consistent with applicable laws (including regulations), projects and operations to provide additional water supplies as quickly as practicable based on available information to address the emergency conditions.

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

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

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

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

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

(A) to complete, not later than 30 days after the date on which the Director or the Commissioner receives a complete written request for water transfer, all requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) necessary to make final permit decisions on the request; and

(B) to approve any water transfer request described in subparagraph (A) to maximize the quantity of water supplies available for nonhabitat uses, on the condition that actions associated with the water transfer comply with applicable Federal laws (including regulations);

(3) adopt a 1:1 inflow to export ratio, as measured as a 3-day running average at Vernalis during the period beginning on April 1, and ending on May 31, absent a determination in writing that a more restrictive inflow to export ratio is required to avoid a significant negative impact on the long-term survival of a listed salmonid species; provided that the 1:1 inflow to export ratio shall apply for the increment of increased flow of the San Joaquin River resulting from the voluntary sale, transfers, or exchanges of water from agencies with rights to divert water from the San Joaquin River or its tributaries and provided that Delta conditions are suitable to allow movement of the acquired, transferred, or exchanged water through the Delta consistent with the Central Valley Project's and the State Water Project's permitted water rights and provided that movement of the Central Valley Project water is consistent with the requirements of Section 3405(a)(1)(H) of the Central Valley Project Improvement Act.

(4) allow and facilitate, consistent with existing priorities, water transfers through the C.W. "Bill" Jones Pumping Plant or the Harvey O. Banks Pumping Plant from April 1 to November 30 provided water transfers comply with state law, including the California Environmental Quality Act.

(c) Accelerated Project Decision and Elevation.—

(1) IN GENERAL.— On request by the Governor of the State, the heads of Federal agencies shall use the expedited procedures under this subsection to make final decisions relating to a Federal project or operation, or to local or State projects or operations that require decisions by the Secretary of the Interior or the Secretary of Commerce to provide additional water supplies if the project's or operation's purpose is to provide relief for emergency drought conditions pursuant to subsections (a) and (b).

(2) REQUEST FOR RESOLUTION.—

(A) IN GENERAL.—On request by the Governor of the State, the head of a Federal agency referenced in paragraph (1), or the head of another Federal agency responsible for carrying out a review of a project, as applicable, the Secretary of the Interior shall convene a final project decision meeting with the heads of all relevant Federal agencies to decide whether to approve a project to provide relief for emergency drought conditions.

(B) MEETING.—The Secretary of the Interior shall convene a meeting requested under subparagraph (A) not later than 7 days after the date on which the meeting request is received.

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

(4) DECISION.—Not later than 10 days after the date on which a meeting is requested under paragraph (2), the head of the relevant Federal agency shall issue a final decision on the project, subject to subsection (e)(2).

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

(d) Application.—To the extent that a Federal agency, other than the agencies headed by the Secretaries, has a role in approving projects described in subsections (a) and (b), this section shall apply to those Federal agencies.

(e) Limitation.—Nothing in this section authorizes the heads of applicable Federal agencies to approve projects—

(1) that would otherwise require congressional authorization; or

(2) without following procedures required by applicable law.

(f) Drought Plan. For the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater. The Secretaries of Commerce and the Interior, in consultation with appropriate State officials, shall develop a drought operations plan that is consistent with the provisions of this Act including the provisions that are intended to provide additional water supplies that could be of assistance during the current drought.

SEC. 304. OPERATION OF CROSS-CHANNEL GATES.

(a) In General.—The Secretary of Commerce and the Secretary of the Interior shall jointly—

(1) authorize and implement activities to ensure that the Delta Cross Channel Gates remain open to the maximum extent practicable using findings from the United States Geological Survey on diurnal behavior of juvenal salmonids, timed to maximize the peak flood tide period and provide water supply and water quality benefits for the duration of the drought emergency declaration of the State, and for the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, consistent with operational criteria and monitoring criteria set forth into the Order Approving a Temporary Urgency Change in License and Permit Terms in Response to Drought Conditions of the California State Water Resources Control Board, effective January 31, 2014 (or a successor order) and other authorizations associated with it;

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

(A) species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) water quality; and

(C) water supply;

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

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

(5) not later than May 15, 2016, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a written report on the extent to which the gates are able to remain open.

(b) Recommendations.—After assessing the information collected under subsection (a), the Secretary of the Interior shall recommend revisions to the operation of the Delta Cross-Channel Gates, to the Central Valley Project, and to the State Water Project, including, if appropriate, any reasonable and prudent alternative contained in the biological opinion issued by the National Marine Fisheries Service on June 4, 2009, that are likely to produce water supply benefits without causing a significant negative impact on the long-term survival of the listed species within the Delta or on water quality.

SEC. 305. FLEXIBILITY FOR EXPORT/INFLOW RATIO.

For the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Commissioner of the Bureau of Reclamation shall continue to vary the averaging period of the Delta Export/Inflow ratio pursuant to the California State Water Resources Control Board decision D1641—

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

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

SEC. 306. EMERGENCY ENVIRONMENTAL REVIEWS.

(a) To minimize the time spent carrying out environmental reviews and to deliver water quickly that is needed to address emergency drought conditions in the State during the duration of an emergency drought declaration, the head of each applicable Federal agency shall, in carrying out this Act, consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (including successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) during the emergency. (b) For the purposes of this section, a Secretary may deem a project to be in compliance with all necessary environmental regulations and reviews if the Secretary determines that the immediate implementation of the project is necessary to address:

(1) human health and safety; or

(2) a specific and imminent loss of agriculture production upon which an identifiable region depends for 25 percent or more of its tax revenue used to support public services including schools, fire or police services, city or county health facilities, unemployment services or other associated social services.

SEC. 307. INCREASED FLEXIBILITY FOR REGULAR PROJECT OPERATIONS.

(1) The Secretaries shall, consistent with applicable laws (including regulations)—

(a) help meet the contract water supply needs of Central Valley Project refuges through the improvement or installation of water conservation measures, water conveyance facilities, and wells to use groundwater resources, on the condition that those activities may only be accomplished by using funding made available under the Water Assistance Program or Reclamation programs of the Department of the Interior; and

(b) make available to individuals or districts who receive water from the United States under water rights settlement contracts, exchange contracts, water service or repayment contracts the additional water obtained from the activities carried out under subparagraph (A);

(2) in coordination with the Secretary of Agriculture, enter into an agreement with the National Academy of Sciences to conduct a comprehensive study, to be completed not later than 1 year after the date of enactment of this Act, on the effectiveness and environmental impacts of saltcedar biological control efforts on increasing water supplies and improving riparian habitats of the Colorado River and its principal tributaries, in the State and elsewhere;

(3) in coordination with the California Department of Water Resources and the California Department of Fish and Wildlife, implement offsite upstream projects in the Delta and upstream Sacramento River and San Joaquin basins that offset the effects on species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) due to activities carried out pursuant this Act, as determined by the Secretaries;

(4) manage reverse flow in the Old and Middle Rivers at -6,100 cfs if real-time monitoring indicates that flows of -6,100 cfs or more negative can be established for specific periods without causing a significant negative impact on the long term survival of the Delta smelt, or if real-time monitoring does not support flows of -6,100 cfs than manage Old and Middle River flows at -5,000 cfs may be made subject to Sections 103(e)(3) and (4);

(5) as soon as practicable after the date of enactment of this Act and pursuant to existing authority available to the Secretary of the Interior, participate in, issue grants, or otherwise provide funding for pilot projects to increase water in reservoirs in regional river basins experiencing extreme, exceptional, or sustained drought that have a direct impact on the water supply of the State, including the Colorado River Basin, on the condition that any participation, grant, or funding by the Secretary of the Interior with respect to the Upper Division shall be with or to the respective State; and

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

SEC. 308. TEMPORARY OPERATIONAL FLEXIBILITY FOR FIRST FEW STORMS OF THE WATER YEAR

(a) In general. Consistent with avoiding a significant negative impact on the long-term survival in the short-term upon listed fish species beyond the range of those authorized under the Endangered Species Act and other

environmental protections under subsection (e), the Secretaries shall authorize the Central Valley Project and the State Water Project, combined, to operate at levels that result in negative Old and Middle River flows at - 7500 cubic feet per second (based on United States Geological Survey gauges on Old and Middle Rivers) daily average for 56 consecutive days after October 1 as described in subsection (c).

(b) Days of temporary operational flexibility. The temporary operational flexibility described in subsection (b) shall be authorized on days that the California Department of Water Resources determines the daily average river flow of the Sacramento River is at, or above, 17,000 cubic feet per second as measured at the Sacramento River at Freeport gauge maintained by the United States Geologic Survey.

(c) Compliance with ESA authorizations. In carrying out this section, the Secretaries may continue to impose any requirements under the smelt and salmonid biological opinions during any period of temporary operational flexibility as they determine are reasonably necessary to avoid an additional significant negative impacts on the long-term survival of a listed fish species beyond the range of those authorized under the Endangered Species Act, provided that the requirements imposed do not reduce water supplies available for the Central Valley Project and the State Water Project.

(d) Other environmental protections.

(1) The Secretaries' actions under this section shall be consistent with applicable regulatory requirements under state law;

(2) During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, OMR flow may be managed at rates less negative than - 5000 cubic feet per second for a minimum duration to avoid movement of adult Delta smelt (*Hypomesus transpacificus*) to areas in the southern Delta that would be likely to increase entrainment at Central Valley Project and State Water Project pumping plants;

(3) This section shall not affect the application of the salmonid biological opinion from April 1 to May 31, unless the Secretary of Commerce finds that some or all of such applicable requirements may be adjusted during this time period to provide emergency water supply relief without resulting in additional adverse effects beyond those authorized under the Endangered Species Act. In addition to any other actions to benefit water supply, the Secretary and the Secretary of Commerce shall consider allowing through-Delta water transfers to occur during this period if they can be accomplished consistent with Section 3405(a)(1)(H) of the Central Valley Project Improvement Act. Water transfers solely or exclusively through the State Water Project are not required to be consistent with Section 3405(a)(1)(H) of the Central Valley Project Improvement Act.

(4) During operations under this section, the Commissioner of Reclamation, in coordination with the Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife, shall undertake a monitoring program and other data gathering to ensure incidental take levels are not exceeded, and to identify potential negative impacts and actions, if any, necessary to mitigate impacts of the temporary operational flexibility to species listed under the Endangered Species Act, 16 U.S.C. 1531-1544; and

(5) The Commissioner is authorized to take any action, including the transfer of appropriated funds between accounts that, in the Commissioner's judgment, are necessary to mitigate the impacts of such operations as long as any such mitigation is consistent with the requirements of this section.

(e) Technical adjustments to target period. If, before temporary operational flexibility has been implemented on 56 consecutive days, the Secretaries operate the Central Valley Project and the State Water Project combined at levels that result in Old and Middle River flows less negative than -7500 cubic feet per second during days of temporary operational flexibility as defined in subsection (c), the duration of such operation shall not be counted toward the 56 consecutive days specified in subsection (b).

(f) Emergency consultation; effect on running averages.

(1) If necessary to implement the provisions of this section, the Commissioner is authorized to take any action necessary to implement this section for up to 56 days. If during the 56 days the Commissioner determines that actions necessary to implement this section will exceed 56 days, the Commissioner shall use the emergency consultation procedures under the Endangered Species Act and its implementing regulation at 50 CFR 402.05 to temporarily adjust the operating criteria under the biological opinions,

(A) solely for extending beyond the 56 consecutive days for additional days of temporary operational flexibility—

(i) no more than necessary to achieve the purposes of this section consistent with the environmental protections in subsections (d) and (e); and

(ii) including, as appropriate, adjustments to ensure that the actual flow rates during the periods of temporary operational flexibility do not count toward the 5-day and 14-day running averages of tidally filtered daily Old and Middle River flow requirements under the biological opinions, or

(B) for other adjustments to operating criteria or to take other urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by the Commissioner.

(2) Following the conclusion of the 56 consecutive days of temporary operational flexibility, or the extended number of days covered by the emergency consultation procedures, the Commissioner shall not reinitiate consultation on these adjusted operations, and no mitigation shall be required, if the effects on listed fish species of these operations under this section remain within the range of those authorized under the Endangered Species Act. If the Commissioner reinitiates consultation, no mitigation measures shall be required.

(g) Level of detail required for analysis. In articulating the determinations required under this section, the Secretaries shall fully satisfy the requirements herein but shall not be expected to provide a greater level of supporting detail for the analysis than feasible to provide within the short time frame permitted for timely decision-making in response to changing conditions in the Delta.

SEC. 309. EXPEDITING WATER TRANSFERS.

(a) In General.—Section 3405(a) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4709(a)) is amended—

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

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

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

“(1) IN GENERAL.—In order to”; and

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

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

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

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

“(A) this Act;

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

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

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

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

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

(5) in paragraph (5) (as so designated), by adding at the end the following:

“(E) The contracting district from which the water is coming, the agency, or the Secretary shall determine if a written transfer proposal is complete within 45 days after the date of submission of the proposal. If the contracting district or agency or the Secretary determines that the proposal is incomplete, the district or agency or the Secretary shall state with specificity what must be added to or revised for the proposal to be complete.”; and

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

(b) Conforming Amendments.—The Central Valley Project Improvement Act (Public Law 102–575) is amended—

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

and

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

SEC. 310. Additional Emergency Consultation.

For adjustments to operating criteria other than under subpart (1) of Section 309(g) of this Act or to take urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by the Commissioner, no mitigation measures shall be required during any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, and any mitigation measures imposed must be based on quantitative data and required only to the extent that such data demonstrates actual harm to species.

SECTION 311. TRANSFER THE NEW MELONES UNIT, CENTRAL VALLEY PROJECT TO INTERESTED PROVIDERS.

(a) DEFINITIONS.—For the purposes of this Act, the

following terms apply:

(1) INTERESTED LOCAL WATER AND POWER

PROVIDERS.—The term “interested local water and

power providers” includes the Calaveras County

Water District, Central San Joaquin Water Conservation

District, Modesto Irrigation District,
Oakdale Irrigation District, Stockton East Water
District, South San Joaquin Irrigation District,
Tuolumne Utilities District, Turlock Irrigation District, and
Union Public Utilities District.

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

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

(b) NEGOTIATIONS.—Notwithstanding any other provision of law, not later than 180 days after the date of the enactment of this Act, the Secretary shall enter into negotiations with interested local water and power providers for the transfer ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers within the State of California.

(c) TRANSFER.—The Secretary may transfer the New Melones Unit, Central Valley project in accordance with an agreement reached pursuant to negotiations conducted under subsection (b).

Section 312. Report

Not later than 360 days after the date of the enactment of this Act, and every 6 months thereafter, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes, in detail—

- (1) if an agreement is reached pursuant to negotiations conducted under section 1(b), the terms of that agreement;
- (2) the status of formal discussions with interested

local water and power providers for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley Project to interested

local water and power providers;

(3) all unresolved issues that are preventing execution of an agreement for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley project to interested local water and power providers;

(4) an analysis and review of studies, reports, discussions, hearing transcripts, negotiations, and other information about past and present formal discussions that—

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

(B) explain or provide information about the issues that prevent progress or finalization

of formal discussions; or

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

(5) any actions the Secretary recommends that

the United States should take to finalize an agreement

for that transfer.

Section 313

(e) The Commissioner of Reclamation is directed to work with local water and irrigation districts in the Stanislaus River Basin to ascertain the water storage made available by the Draft Plan of Operations in New Melones Reservoir (DRPO) for water conservation programs, conjunctive use projects, water transfers, rescheduled project water and other projects to maximize water storage and ensure the beneficial use of the water resources in the Stanislaus River Basin. All such programs and projects shall be implemented according to all applicable laws and regulations. The source of water for any such storage program at New Melones Reservoir shall be made available under a valid water right, consistent with the State of California water transfer guidelines and any other applicable state water law. The Commissioner shall inform the Congress within 18 months setting forth the amount of storage made available by the DRPO that has been put to use under this program, including proposals received by Reclamation from interested parties for the purpose of this section.

SEC. 312. ESA Applicants

In the event that the Bureau of Reclamation or another federal agency initiates or reinitiates consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)), with respect to construction or operation of the Central Valley Project and State Water Project, or any part thereof, the State Water Project Contractors and the Central Valley Project Contractors will be accorded all the rights and responsibilities extended to applicants in the consultation process.

TITLE IV— CALFED STORAGE FEASIBILITY STUDIES

SEC. 401. The Secretary of the Interior, through the Commissioner of Reclamation, shall—

(1) complete the feasibility studies described in

clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of

Public Law 108–361 (118 Stat. 1684) and submit

such studies to the appropriate committees of the

House of Representatives and the Senate not later

than December 31, 2015;

(2) complete the feasibility studies described in

clauses (i)(II) and (ii)(I) of section 103(d)(1)(A) of

Public Law 108–361 and submit such studies to the

appropriate committees of the House of Representatives

and the Senate not later than November 30,

2016;

(3) complete the feasibility study described in

section 103(f)(1)(A) of Public Law 108–361 (118

Stat. 1694) and submit such study to the appropriate

Committees of the House of Representatives

and the Senate not later than December 31, 2017;

and

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

SECTION 402. Temperance Flat

(a). Definitions.

For the Purposes of this section:

- (1) PROJECT – The term “Project” means the Temperance Flat Reservoir Project on the Upper San Joaquin River
- (2) RMP- The term “RMP” means the document titled “Bakersfield Field Office, Record of Decision & Approved Resource Management Plan”, dated December 2014
- (3) SECRETARY- The term “Secretary” means the Secretary of the Interior

(b). Applicability of RMP

The RMP and findings related thereto shall have no effect on or applicability to the Secretary’s determination of feasibility of, or on any findings or environmental review documents related to-

- (1) The Project; or
- (2) Actions taken by the Secretary pursuant to section 103(d)(1)(A)(ii)(II) of the CALFED Bay-Delta Authorization Act (Public Law 108-361).

(c). Duties of Secretary Upon Determination of Feasibility.

If the Secretary finds the Project to be feasible, the Secretary shall manage the land recommended in the RMP for designation under the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) in a manner that does not impede any environmental reviews, preconstruction, construction, or other activities of the Project, regardless of whether or not the Secretary submits any official recommendation to Congress under the Wild and Scenic Rivers Act.

(d) Reserved Water Rights

Effective December 22, 2014, there shall be no Federal reserved water rights to any segment of the San Joaquin River related to the Project as a result of any designation made under the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287).

SEC. 403. CALFED STORAGE ACCOUNTABILITY.

(1) If the Bureau of Reclamation determines that an environmental review document for the water storage projects referenced in of Section 103(d)(1) of P.L. 108-361 will not be completed according to the schedule specified in Section 401, the Bureau shall notify the Senate Committee on Energy and Natural Resources, the Senate Appropriations Subcommittee on

Energy and Water Development, the House of Representatives Natural Resources Committee, and the House of Representatives Transportation and Infrastructure Committee within 14 days of the determination. The notification shall include:

- (A) An explanation of the delay;
- (B) The anticipated length of the delay and the revised completion date;
- (C) The steps that the Bureau will take to mitigate the delay, including, but not limited to, a request to reprogram existing funds appropriated to the Bureau to meet the revised completion deadline.

(2) The Bureau of Reclamation shall carry out the procedures in subsection (a) for each subsequent delay beyond the revised completion deadline.

(3) IN GENERAL.—[Subject to paragraph (2),] if the Secretary fails to complete a feasibility study or environmental review required for any water storage project referred to in subsection (a) in accordance with the schedule specified in that subsection, the amounts made available to the Policy and Administration Account of the Bureau of Reclamation for fiscal year 2015 shall be withheld and reduced by an amount equal to the product obtained by multiplying—

(A) \$20,000; and

(B) the number of weeks during the period beginning on the applicable deadline for completion of the feasibility study or environmental review and ending on the date on which the final feasibility study or environmental review is completed.

(4) DISTRIBUTION.—If the relevant feasibility study or environmental review is delayed beyond the schedule specified in subsection (a), the percentage of withheld funds that shall be released and made available to the Bureau of Reclamation on completion of the feasibility study or environmental review document shall be—

(A) in the case of a delay the duration of which is less than [or equal to] 90 days, 100 percent of the withheld funds;

(B) in the case of a delay the duration of which is more than 90 days but less than [or equal to] 180 days, 75 percent of the withheld funds;

(C) in the case of a delay the duration of which is more than 180 days but less than [or equal to] 270 days, 50 percent of the withheld funds;

(D) in the case of a delay the duration of which is more than 270 days but less than [or equal to] 1 year, 25 percent of the withheld funds; and

(E) in the case of a delay the duration of which is more than 1 year, 0 percent of the withheld funds.

SEC. 404. WATER STORAGE PROJECT CONSTRUCTION.

(a) The Secretary, acting through the Commissioner of the Bureau of Reclamation, may partner or enter into an agreement on the water storage projects identified in section 103(d)(1) of

the Water Supply Reliability and Environmental Improvement Act (Public Law 108-361) (and Acts supplemental and amendatory to the Act) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.

(b) If the Secretary determines a project described in Sections 402(a)(1) and (2) is feasible, the Secretary is authorized to carry out the project in a manner that is substantially in accordance with the recommended plan, and subject to the conditions described in the feasibility study, provided that no federal funding shall be used to construct the project.

SEC. 405 . DAM SAFETY PROJECTS WITH INCREASED STORAGE COMPONENT.

(a) Additional Project Benefits.—The Reclamation Safety of Dams Act of 1978 is amended—

(1) in section 3 (43 U.S.C. 507), by striking “Construction” and inserting “Except as provided in section 5B, construction”; and

(2) by inserting after section 5A (43 U.S.C. 509a) the following:

“SEC. 5B. ADDITIONAL PROJECT BENEFITS.

“(a) In General.—Notwithstanding section 3, if the Secretary makes a determination described in subsection (b), the Secretary is authorized to develop any additional project benefit—

“(1) through the construction of new or supplementary works on a project in conjunction with the activities carried out by the Secretary pursuant to section 2; and

“(2) subject to the conditions described in the feasibility study relating to the project.

“(b) Description of Determination.—A determination referred to in subsection (a) is a determination by the Secretary that—

“(1) an additional project benefit, including but not limited to additional conservation storage capacity, is—

“(A) necessary; and

“(B) in the interests of the United States; and

“(2) the project benefit proposed to be carried out is—

“(A) feasible; and

“(B) not inconsistent with the purposes of this Act.

“(c) Requirements.—The costs associated with developing an additional project benefit under this section shall be—

“(1) allocated to entity or entities benefitting from the additional conservation storage capacity, subject to agreement between the state and federal funding agencies on such

allocations; and

“(2) repaid in accordance with all applicable provisions of Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).”.

(b) San Luis Reservoir Expansion.—Section 103(f)(1)(A) of Public Law 108–361 (118 Stat. 1694) is amended—

(1) by adding at the end the following:

“(ii) ENVIRONMENTAL REVIEWS AND FEASIBILITY STUDY.—The Commissioner of Reclamation shall submit to Congress—

a final environmental impact statement relating to the San Luis Reservoir by not later than December 31, 2017.”.

TITLE V—WATER RIGHTS PROTECTIONS

SEC. 501. PROTECTIONS FOR STATE WATER PROJECT CONTRACTORS..

(a) IMPLEMENTATION IMPACTS.—The Secretary of the Interior shall confer with the California Department of Fish and Wildlife in connection with the implementation of this Act on potential impacts to any consistency determination for operations of the State Water Project issued pursuant to California Fish and Game Code section 2080.1.

(b) ADDITIONAL YIELD.—If, as a result of the application of this Act, the California Department of Fish and Wildlife—

(1) revokes the consistency determinations pursuant to California Fish and Game Code section 2080.1 that are applicable to the State Water Project;

(2) amends or issues one or more new consistency determinations pursuant to California Fish and Game Code section 2080.1 in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion; or

(3) requires take authorization under section 2081 for operation of the State Water Project in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion, and as a consequence of the Department’s action, Central Valley Project yield is greater than it would have been absent the Department’s actions, then that additional yield shall be made available to the State Water Project for delivery to State Water Project contractors to offset losses resulting from the Department’s action.

(c) NOTIFICATION RELATED TO ENVIRONMENTAL PROTECTIONS.—The Secretary of the Interior shall immediately notify the Director of the California Department of Fish and Wildlife in writing if the Secretary of the Interior determines that implementation of the smelt biological opinion and the salmonid biological opinion consistent with this Act reduces environmental protections for any species covered by the opinions.

SEC. 502. AREA OF ORIGIN PROTECTIONS.

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

(b) DIVERSIONS.—Any action undertaken by the Secretaries pursuant to both this Act and section 7 of the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)) that requires that diversions from the Sacramento River or the San Joaquin River watersheds upstream of the Delta be bypassed shall not be undertaken in a manner that alters the water rights priorities established by California law.

(c) ENDANGERED SPECIES ACT.—Nothing in this title alters the existing authorities provided to and obligations placed upon the Federal Government under the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)), as amended.

(d) CONTRACTS.—With respect to individuals and entities with water rights on the Sacramento River, the mandates of this section may be met, in whole or in part, through a contract with the Secretary executed pursuant to section 14 of Public Law 76–260; 53 Stat. 1187 ([43 U.S.C. 389](#)) that is in conformance with the Sacramento River Settlement Contracts renewed by the Secretary in 2005.

SEC. 503. NO REDIRECTED ADVERSE IMPACTS.

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

(1) result in the involuntary reduction of water supply or fiscal impacts to individuals or districts who receive water from either the State Water Project or the United States under water rights settlement contracts, exchange contracts, water service contracts, repayment contracts, or water supply contracts; or

(2) cause redirected adverse water supply or fiscal impacts to those within the Sacramento River watershed, the San Joaquin River watershed or the State Water Project service area.

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

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

(1) water service, repayment, settlement, purchase, or exchange contract with the United States, including the obligation to satisfy exchange contracts and settlement contracts prior to the allocation of any other Central Valley Project water; or

(2) State Water Project water supply or settlement contract with the State.

SEC. 504. ALLOCATIONS FOR SACRAMENTO VALLEY CONTRACTORS.

(a) ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (b), the Secretary of the Interior is directed, in the operation of the Central Valley Project, to allocate water provided for irrigation purposes to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed in compliance with the following:

(A) Not less than 100 percent of their contract quantities in a “Wet” year.

(B) Not less than 100 percent of their contract quantities in an “Above Normal” year.

(C) Not less than 100 percent of their contract quantities in a “Below Normal” year that is preceded by an “Above Normal” or a “Wet” year.

(D) Not less than 50 percent of their contract quantities in a “Dry” year that is preceded by a “Below Normal,” an “Above Normal,” or a “Wet” year.

(E) In all other years not identified herein, the allocation percentage for existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed shall not be less than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors, up to 100 percent; provided, that nothing herein shall preclude an allocation to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed that is greater than twice the allocation percentage to South-of-Delta Central Valley Project agricultural water service contractors.

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

(A) the priority of individuals or entities with Sacramento River water rights, including those with Sacramento River Settlement Contracts, that have priority to the diversion and use of Sacramento River water over water rights held by the United States for operations of the Central Valley Project;

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

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

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

(1) modify any provision of a water service contract that addresses municipal and industrial water shortage policies of the Secretary;

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

(3) affect or limit the authority of the Secretary to implement municipal and industrial water shortage policies; or

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

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

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

(1) affect the allocation of water to Friant Division contractors; or

(2) result in the involuntary reduction in contract water allocations to individuals or entities with contracts to receive water from the Friant Division.

(d) PROGRAM FOR WATER RESCHEDULING.—The Secretary of the Interior shall develop and implement a program, not later than 1 year after the date of the enactment of this Act, to provide for the opportunity for existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed to reschedule water, provided for under their Central Valley Project water service contracts, from one year to the next.

(e) DEFINITIONS.—In this section:

(1) The term “existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed” means water service contractors within the Shasta, Trinity, and Sacramento River Divisions of the Central Valley Project, that have a water service contract in effect, on the date of the enactment of this section, that provides water for irrigation.

(2) The year type terms used in subsection (a) have the meaning given those year types in the Sacramento Valley Water Year Type (40–30–30) Index.

SEC. 505. EFFECT ON EXISTING OBLIGATIONS.

Nothing in this Act preempts or modifies any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law, including established water rights priorities.

TITLE VI—MISCELLANEOUS

SEC. 601 . AUTHORIZED SERVICE AREA.

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

(b) Long-term Contract.—

(1) IN GENERAL.—Notwithstanding the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706) and subject to paragraph (2), the Secretary of the Interior, in accordance with the reclamation laws, shall enter into a long-term contract with the Kettleman City Community Services District, California, under terms and conditions mutually agreeable to the parties, for the delivery of up to 900 acre-feet of Central Valley Project water for municipal and industrial use.

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

(c) Permit.—The Secretary shall apply for a permit with the State for a joint place of use for water deliveries authorized under the contract entered into under subsection (b) with respect to the expanded service area under subsection (a), consistent with State law.

(d) Additional Costs.—If any additional infrastructure, water treatment, or related costs are needed to implement this section, those costs shall be the responsibility of the non-Federal entity.

SEC. 602 . OVERSIGHT BOARD FOR RESTORATION FUND.

(a) Report; Advisory Board.—Section 3407 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4726) is amended by adding at the end the following:

“(g) Report on Expenditure of Funds.—

“(1) IN GENERAL.—For each fiscal year, the Secretary, in consultation with the Advisory Board, shall submit to Congress a plan for the expenditure of all of the funds deposited into the Restoration Fund during the preceding fiscal year.

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

“(h) Advisory Board.—

“(1) ESTABLISHMENT.—There is established the Restoration Fund Advisory Board (referred to in this section as the ‘Advisory Board’), which shall be composed of 15 members appointed by the Secretary.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The Secretary shall appoint members to the Advisory Board that

represent the various Central Valley Project stakeholders, of whom—

“(i) 4 members shall be agricultural users of the Central Valley Project;

“(ii) 2 members shall be municipal and industrial users of the Central Valley Project;

“(iii) 3 members shall be power contractors of the Central Valley Project;

“(iv) 1 member shall be a representative of a federal wildlife refuge that contracts for Central Valley Project water supplies with the Bureau of Reclamation;

“(v) 1 member shall have expertise in the economic impact of changes to water operations.

“(B) OBSERVER.—The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

“(C) CHAIRMAN.—The Secretary shall appoint 1 of the members described in subparagraph (A) to serve as Chairman of the Advisory Board.

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

“(4) DATE OF APPOINTMENTS.—The appointment of a member of the Panel shall be made not later than—

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

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

“(5) Vacancies.—

(A) IN GENERAL.—A vacancy on the Panel shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(C) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the successor of the member takes office.

“(6) Removal —A Member of the Panel may be removed from office by the Secretary of the Interior.

“(7) Federal Advisory Committee Act. —The Panel shall not be subject to the requirements of the Federal Advisory Committee Act.

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

“(A) to meet not less frequently than semiannually to develop and make recommendations to the Secretary regarding priorities and spending levels on projects and programs carried out under this title;

“(B) to ensure that any advice given or recommendation made by the Advisory Board reflects the independent judgment of the Advisory Board;

“(C) not later than December 31, 2015, and annually thereafter, to submit to the Secretary and Congress the recommendations under subparagraph (A); and

“(D) not later than December 31, 2015, and biennially thereafter, to submit to Congress a report that details the progress made in achieving the actions required under section 3406.

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

“(10) Cooperation and Assistance.—

(A) Upon request of the Panel Chairperson for information or assistance to facilitate the carrying out of this section, the Secretary of the Interior shall promptly provide such information, unless otherwise prohibited by law.

(B) Space and Assistance.—The Secretary of the Interior shall provide the Panel with appropriate and adequate office space, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Panel, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

Sec. 603. WATER SUPPLY ACCOUNTING.

All Central Valley Project water, except Central Valley Project water released from the Friant Division pursuant to the San Joaquin River Restoration Settlement Act (Public Law 111-11) and water released pursuant to the December 2000 Trinity River Mainstem Fishery Restoration Record of Decision, used to implement an action undertaken for a fishery beneficial purpose that was not imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing on October 30, 1992, shall be credited to the quantity of Central Valley Project yield dedicated and managed under this section; provided, that nothing herein shall affect the Secretary’s duty to comply with any otherwise lawful requirement imposed on operations of the Central Valley Project under any provision of federal or state law.

Sec. 604 . IMPLEMENTATION OF WATER REPLACEMENT PLAN.

(1) Not later than October 1, 2016, the Secretary shall update and implement the plan required by Section 3408(j) of Title 34 of Public Law 102-575. The Secretary shall provide reports to the Congress annually describing the progress of implementing the plan required by Section 3408(j) of Title 34 of Public Law 102-575.

(2) IN GENERAL.—[Subject to paragraph (3),] if the Secretary fails to update and implement the plan required by paragraph (1) of this section in accordance with the schedule specified in that subsection, the amounts made available to the Policy and Administration Account of the Bureau of Reclamation for fiscal year 2015 shall be withheld and reduced by an amount equal to the product obtained by multiplying—

(A) \$20,000; and

(B) the number of weeks during the period beginning on the applicable deadline for completion of the feasibility study or environmental review and ending on the date on which the final feasibility study or environmental review is completed.

(3) DISTRIBUTION.—If the relevant feasibility study or environmental review is delayed beyond the schedule specified in subsection (a), the percentage of withheld funds that shall be released and made available to the Bureau of Reclamation on completion of the feasibility study or environmental review document shall be—

(A) in the case of a delay the duration of which is less than [or equal to] 90 days, 100 percent of the withheld funds;

(B) in the case of a delay the duration of which is more than 90 days but less than [or equal to] 180 days, 75 percent of the withheld funds;

(C) in the case of a delay the duration of which is more than 180 days but less than [or equal to] 270 days, 50 percent of the withheld funds;

(D) in the case of a delay the duration of which is more than 270 days but less than [or equal to] 1 year, 25 percent of the withheld funds; and

(E) in the case of a delay the duration of which is more than 1 year, 0 percent of the withheld funds.

Sec. 605 . NATURAL AND ARTIFICIALLY SPAWNED SPECIES.

After the date of the enactment of this title, and regardless of the date of listing, the Secretaries of the Interior and Commerce shall not distinguish between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making any determination under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that relates to any anadromous or pelagic fish species that resides for all or a portion of its life in the Sacramento-San Joaquin Delta or rivers tributary thereto.

Sec. 606 . AMENDMENT TO PURPOSES

Section 3402 of the Central Valley Project Improvement Act (106 Stat. 4706) is amended—

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

(2) by adding at the end the following:

“(g) to ensure that water dedicated to fish and wildlife purposes by this title is replaced and provided to Central Valley Project water contractors by December 31, 2018, at the lowest cost reasonably achievable; and

“(h) to facilitate and expedite water transfers in accordance with this Act.”.

Sec. 607 . AMENDMENT TO DEFINITION

Section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707) is amended—

(1) by amending subsection (a) to read as follows:

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

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

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

(4) by adding at the end the following:

“(n) the term ‘reasonable flow’ means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors.”.

TITLE VII. REGULATORY STREAMLINING.

SEC. 701. PERMITTING EFFICIENCIES

(a) Definitions

(1) SECRETARY- The term ‘Secretary’ means the Secretary of the Interior.

(2) BUREAU- The term ‘Bureau’ means the Bureau of Reclamation.

(3) QUALIFYING PROJECTS- The term ‘qualifying projects’ means new surface water storage projects in the States covered under the Act of June 17, 1902 (32 Stat. 388, Chapter 1093) and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) constructed on lands administered by the

Department of the Interior or the Department of Agriculture, exclusive of any easement, right-of-way, lease, or any private holding.

(4) COOPERATING AGENCIES- The term 'cooperating agency' means a Federal agency with jurisdiction over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a qualifying project under applicable Federal laws and regulations, or a State agency subject to section 3(c).

(b) Establishment of lead agency and cooperating agencies.

(a) Establishment of Lead Agency- The Bureau is established as the lead agency for purposes of coordinating all reviews, analyses, opinions, statements, permits, licenses, or other approvals or decisions required under Federal law to construct qualifying projects.

(b) Identification and Establishment of Cooperating Agencies- The Commissioner of the Bureau shall--

(1) identify, as early as practicable upon receipt of an application for a qualifying project, any Federal agency that may have jurisdiction over a review, analysis, opinion, statement, permit, license, approval, or decision required for a qualifying project under applicable Federal laws and regulations; and

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

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

(B) has no expertise or information relevant to the qualifying project or any review, analysis, opinion, statement, permit, license, or other approval or decision associated therewith; or

(C) does not intend to submit comments on the qualifying project or conduct any review of such a project or make any decision with respect to such project in a manner other than in cooperation with the Bureau.

(c) State Authority- A State in which a qualifying project is being considered may choose, consistent with State law--

(1) to participate as a cooperating agency; and

(2) to make subject to the processes of this Act all State agencies that--

(A) have jurisdiction over the qualifying project;

(B) are required to conduct or issue a review, analysis, or opinion for the qualifying project; or

(C) are required to make a determination on issuing a permit, license, or approval for the water resource project.

(c) Bureau Responsibilities

(a) In General- The principal responsibilities of the Bureau under this Act are to--

- (1) serve as the point of contact for applicants, State agencies, Indian tribes, and others regarding proposed projects;
- (2) coordinate preparation of unified environmental documentation that will serve as the basis for all Federal decisions necessary to authorize the use of Federal lands for qualifying projects; and
- (3) coordinate all Federal agency reviews necessary for project development and construction of qualifying projects.

(b) Coordination Process- The Bureau shall have the following coordination responsibilities:

- (1) PRE-APPLICATION COORDINATION- Notify cooperating agencies of proposed qualifying projects not later than 30 days after receipt of a proposal and facilitate a preapplication meeting for prospective applicants, relevant Federal and State agencies, and Indian tribes to--
 - (A) explain applicable processes, data requirements, and applicant submissions necessary to complete the required Federal agency reviews within the time frame established; and
 - (B) establish the schedule for the qualifying project.
- (2) CONSULTATION WITH COOPERATING AGENCIES- Consult with the cooperating agencies throughout the Federal agency review process, identify and obtain relevant data in a timely manner, and set necessary deadlines for cooperating agencies.
- (3) SCHEDULE- Work with the qualifying project applicant and cooperating agencies to establish a project schedule. In establishing the schedule, the Bureau shall consider, among other factors--
 - (A) the responsibilities of cooperating agencies under applicable laws and regulations;
 - (B) the resources available to the cooperating agencies and the non-Federal qualifying project sponsor, as applicable;
 - (C) the overall size and complexity of the qualifying project;
 - (D) the overall schedule for and cost of the qualifying project; and
 - (E) the sensitivity of the natural and historic resources that may be affected by the qualifying project.
- (4) ENVIRONMENTAL COMPLIANCE- Prepare a unified environmental review document for each qualifying project application, incorporating a single environmental record on which all cooperating agencies with authority to issue approvals for a given qualifying project shall base project approval decisions. Help ensure that cooperating agencies make necessary decisions, within their respective authorities, regarding Federal approvals in accordance with the following timelines:
 - (A) Not later than one year after acceptance of a completed project application when an environmental assessment and finding of no significant impact is determined to be the appropriate level of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
 - (B) Not later than one year and 30 days after the close of the public comment period for a draft environmental impact statement under the

- National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), when an environmental impact statement is required under the same.
- (5) CONSOLIDATED ADMINISTRATIVE RECORD- Maintain a consolidated administrative record of the information assembled and used by the cooperating agencies as the basis for agency decisions.
- (6) PROJECT DATA RECORDS- To the extent practicable and consistent with Federal law, ensure that all project data is submitted and maintained in generally accessible electronic format, compile, and where authorized under existing law, make available such project data to cooperating agencies, the qualifying project applicant, and to the public.
- (7) PROJECT MANAGER- Appoint a project manager for each qualifying project. The project manager shall have authority to oversee the project and to facilitate the issuance of the relevant final authorizing documents, and shall be responsible for ensuring fulfillment of all Bureau responsibilities set forth in this section and all cooperating agency responsibilities under section 5.

(d) Cooperating Agency Responsibilities.

- (a) Adherence to Bureau Schedule- Upon notification of an application for a qualifying project, all cooperating agencies shall submit to the Bureau a timeframe under which the cooperating agency reasonably considers it will be able to complete its authorizing responsibilities. The Bureau shall use the timeframe submitted under this subsection to establish the project schedule under section 4, and the cooperating agencies shall adhere to the project schedule established by the Bureau.
- (b) Environmental Record- Cooperating agencies shall submit to the Bureau all environmental review material produced or compiled in the course of carrying out activities required under Federal law consistent with the project schedule established by the Bureau.
- (c) Data Submission- To the extent practicable and consistent with Federal law, the cooperating agencies shall submit all relevant project data to the Bureau in a generally accessible electronic format subject to the project schedule set forth by the Bureau.

(e) Funding to Process Permits.

- (a) In General- The Secretary, after public notice in accordance with the Administrative Procedures Act (5 U.S.C. 553), may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a qualifying project or activity for a public purpose under the jurisdiction of the Department of the Interior.
- (b) Effect on Permitting-
- (1) IN GENERAL- In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decisionmaking with respect to permits, either substantively or procedurally.
- (2) EVALUATION OF PERMITS- In carrying out this section, the Secretary shall ensure that the evaluation of permits carried out using funds accepted under this section shall--

- (A) be reviewed by the Regional Director of the Bureau of Reclamation, or the Regional Director's designee, of the region in which the qualifying project or activity is located; and
 - (B) use the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under this section.
- (3) IMPARTIAL DECISIONMAKING- In carrying out this section, the Secretary and the cooperating agencies receiving funds under this section for qualifying projects shall ensure that the use of the funds accepted under this section for such projects shall not--
- (A) impact impartial decisionmaking with respect to the issuance of permits, either substantively or procedurally; or
 - (B) diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.
- (c) Limitation on Use of Funds- None of the funds accepted under this section shall be used to carry out a review of the evaluation of permits required under subsection (b)(2)(A).
- (d) Public Availability- The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public, including on the Internet.

Sec. 702. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS

- (a) Conversion and Prepayment of Contracts-
- (1) CONVERSION- Upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this Act and between the United States and a water users' association to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions. The manner of conversion under this paragraph shall be as follows:
 - (A) Water service contracts that were entered into under section 9(e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195).
 - (B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).
 - (2) PREPAYMENT- All contracts converted pursuant to paragraph (1)(A) shall--
 - (A) upon request of the contractor, provide for the repayment, either in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project specific irrigation rate repayment

schedules, as adjusted to reflect payment not reflected in such schedule, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, no later than 3 years after the effective date of the repayment contract; such amount to be discounted by 1/2 the Treasury rate. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days following receipt of request of the contractor;

(B) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversation under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law;

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

(D) continue so long as the contractor pays applicable charges, consistent with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(3) CONTRACT REQUIREMENTS- The following shall apply with regard to all contracts converted pursuant to paragraph (1)(B) and any other repayment contracts:

(A) Upon request of the contractor, provide for the repayment in lump sum of the remaining net present value of construction costs identified in water project specific municipal and industrial rate repayment schedules, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days after receipt of request of contractor.

(B) The contract shall require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversation under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law; and

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

(4) CONDITIONS- All contracts entered into pursuant to paragraphs (1), (2), and (3) shall--

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

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

(C) not modify other water service, repayment, exchange and transfer contractual rights between the water users' association, and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association and their landowners as provided under State law.

(b) Accounting- The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary shall credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) Applicability of Certain Provisions-

(1) EFFECT OF EXISTING LAW- Upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs pursuant to a contract entered into pursuant to subsection (a)(2)(A), sections 213 (a) and (b) of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(2) EFFECT OF OTHER OBLIGATIONS- The obligation of a contractor to repay construction costs or other capitalized costs described in subsections (a)(2)(B), (a)(3)(B) or (b) shall not affect a contractor's status as having repaid all of the construction costs assignable to the contractor or the applicability of sections 213 (a) and (b) of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the amount required to be paid by the contractor under the repayment contract entered into pursuant to subsection (a)(2)(A) have been paid.

(d) Effect on Existing Law Not Altered- Implementation of the provisions of this Act shall not alter the repayment obligation of any water service or repayment contractor receiving water from the same water project, or shift any costs that would otherwise have been properly assignable to the water users' association identified in subsections (a)(1), (a)(2), and (a)(3) absent this section, including operation and maintenance costs, construction costs, or other capitalized costs incurred after the date of the enactment of this Act, or to other contractors.

(e) Surface Water Storage Enhancement Program-

(1) IN GENERAL- Three years following the date of enactment of this Act, all receipts generated from prepayment of contracts under this section beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the date of

enactment of this Act shall be directed to the Reclamation Surface Water Storage Account under paragraph (2).

(2) SURFACE STORAGE ACCOUNT- The Secretary shall allocate amounts collected under paragraph (1) into the 'Reclamation Surface Storage Account' to fund or provide loans for the construction of surface water storage. The Secretary may also enter into cooperative agreements with water users' associations for the construction of surface water storage and amounts within the Surface Storage Account may be used to fund such construction. Surface water storage projects that are otherwise not federally authorized shall not be considered Federal facilities as a result of any amounts allocated from the Surface Storage Account for part or all of such facilities.

(3) REPAYMENT- Amounts used for surface water storage construction from the Account shall be fully reimbursed to the Account consistent with the requirements under Federal reclamation law (the law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093))), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) except that all funds reimbursed shall be deposited in the Account established under paragraph (1).

(4) AVAILABILITY OF AMOUNTS- Amounts deposited in the Account under this subsection shall--

(A) be made available in accordance with this section, without further appropriation; and

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

(5) PURPOSES OF SURFACE WATER STORAGE- Construction of surface water storage under this section shall be made for the following purposes:

(A) Increased municipal and industrial water supply.

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

(C) Agricultural drainage improvements.

(D) Agricultural irrigation.

(E) Increased recreation opportunities.

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

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

Sec. 703. Bureau of Reclamation Surface Water Storage Streamlining

(a) DEFINITIONS.

(1) ENVIRONMENTAL IMPACT STATEMENT- The term 'environmental impact statement' means the detailed statement of environmental impacts of a project required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL REVIEW PROCESS-

(A) IN GENERAL- The term 'environmental review process' means the process of preparing an environmental impact statement, environmental

assessment, categorical exclusion, or other document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project study.

(B) INCLUSIONS- The term `environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project study under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) FEDERAL JURISDICTIONAL AGENCY- The term `Federal jurisdictional agency' means a Federal agency with jurisdiction delegated by law, regulation, order, or otherwise over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a project study under applicable Federal laws (including regulations).

(4) FEDERAL LEAD AGENCY- The term `Federal lead agency' means the Bureau of Reclamation.

(5) PROJECT- The term `project' means a surface water project to be carried out or funded by the Secretary pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(6) PROJECT SPONSOR- The term `project sponsor' means a State, regional, or local authority or other qualifying entity, such as a water conservation district, irrigation district, water conservancy district, or rural water district or association.

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

(8) SECRETARY- The term `Secretary' means the Secretary of the Interior.

(9) SURFACE WATER STORAGE- The term `surface water storage' means any surface water reservoir or impoundment that would be owned, funded, or operated by the Bureau of Reclamation.

(b) ACCELERATION OF STUDIES.

(a) In General- To the extent practicable, a project study initiated by the Secretary, after the date of enactment of this Act, under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto, shall--

(1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;

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

(3) ensure that personnel from the local project area, region, and headquarters levels of the Bureau of Reclamation concurrently conduct the review required under that section.

(b) Extension- If the Secretary determines that a project study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall--

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

- (2) notify the non-Federal project cost-sharing partner that the project study has been delayed; and
- (3) provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the reasons the requirements of subsection (a) are not attainable.

(c) Exception-

- (1) IN GENERAL- Notwithstanding the requirements of subsection (a), the Secretary may extend the timeline of a project study by a period not to exceed 3 years, if the Secretary determines that the project study is too complex to comply with the requirements of subsection (a).
- (2) FACTORS- In making a determination that a study is too complex to comply with the requirements of subsection (a), the Secretary shall consider--
 - (A) the type, size, location, scope, and overall cost of the project;
 - (B) whether the project will use any innovative design or construction techniques;
 - (C) whether the project will require significant action by other Federal, State, or local agencies;
 - (D) whether there is significant public dispute as to the nature or effects of the project; and
 - (E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.
- (3) NOTIFICATION- Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the results of that determination, including an identification of the specific 1 or more factors used in making the determination that the project is complex.
- (4) LIMITATION- The Secretary shall not extend the timeline for a project study for a period of more than 7 years, and any project study that is not completed before that date shall no longer be authorized.

(d) Reviews- Not later than 90 days after the date of the initiation of a project study described in subsection (a), the Secretary shall--

- (1) take all steps necessary to initiate the process for completing federally mandated reviews that the Secretary is required to complete as part of the study, including the environmental review process under section 5;
- (2) convene a meeting of all Federal, tribal, and State agencies identified under section 5(d) that may--
 - (A) have jurisdiction over the project;
 - (B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or
 - (C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study; and
- (3) take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.

(e) Interim Report- Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and make publicly available a report that describes--

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

(2) a review of project delivery schedules, including a description of any delays on those studies initiated prior to the date of the enactment of this Act; and

(3) any recommendations for additional authority necessary to support efforts to expedite the project.

(f) Final Report- Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and make publicly available a report that describes--

(1) the status of the implementation of this section, including a description of each project study subject to the requirements of this section;

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

(3) any recommendations for additional authority necessary to support efforts to expedite the project study process, including an analysis of whether the limitation established by subsection (a)(2) needs to be adjusted to address the impacts of inflation.

(c) EXPEDITED COMPLETION OF REPORTS.

The Secretary shall--

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

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

(d) PROJECT ACCELERATION.

(a) Applicability-

(1) IN GENERAL- This section shall apply to each project study that is initiated after the date of enactment of this Act and for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) FLEXIBILITY- Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

(3) LIST OF PROJECT STUDIES-

(A) IN GENERAL- The Secretary shall annually prepare, and make publicly available, a list of all project studies that the Secretary has determined--

- (i) meets the standards described in paragraph (1); and
- (ii) does not have adequate funding to make substantial progress toward the completion of the project study.

(B) INCLUSIONS- The Secretary shall include for each project study on the list under subparagraph (A) a description of the estimated amounts necessary to make substantial progress on the project study.

(b) Project Review Process-

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

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

(3) TIMING- The coordinated environmental review process under this subsection shall be completed not later than the date on which the Secretary, in consultation and concurrence with the agencies identified under section 5(d), establishes with respect to the project study.

(c) Lead Agencies-

(1) JOINT LEAD AGENCIES-

(A) IN GENERAL- Subject to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the requirements of section 1506.8 of title 40, Code of Federal Regulations (or successor regulations), including the concurrence of the proposed joint lead agency, a project sponsor may serve as the joint lead agency.

(B) PROJECT SPONSOR AS JOINT LEAD AGENCY- A project sponsor that is a State or local governmental entity may--

- (i) with the concurrence of the Secretary, serve as a joint lead agency with the Federal lead agency for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
- (ii) prepare any environmental review process document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) required in support of any action or approval by the Secretary if--

- (I) the Secretary provides guidance in the preparation process and independently evaluates that document;
- (II) the project sponsor complies with all requirements applicable to the Secretary under--

(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(bb) any regulation implementing that Act; and

(cc) any other applicable Federal law; and

(III) the Secretary approves and adopts the document before the Secretary takes any subsequent action or makes any approval based on that document, regardless of whether the action or approval of the Secretary results in Federal funding.

(2) DUTIES- The Secretary shall ensure that--

(A) the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection; and

(B) any environmental document prepared by the project sponsor is appropriately supplemented to address any changes to the project the Secretary determines are necessary.

(3) ADOPTION AND USE OF DOCUMENTS- Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency making any determination related to the project study to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency under--

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

(B) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(4) ROLES AND RESPONSIBILITY OF LEAD AGENCY- With respect to the environmental review process for any project study, the Federal lead agency shall have authority and responsibility--

(A) to take such actions as are necessary and proper and within the authority of the Federal lead agency to facilitate the expeditious resolution of the environmental review process for the project study; and

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

(d) Participating and Cooperating Agencies-

(1) IDENTIFICATION OF JURISDICTIONAL AGENCIES- With respect to carrying out the environmental review process for a project study, the Secretary shall identify, as early as practicable in the environmental review process, all Federal, State, and local government agencies and Indian tribes that may--

(A) have jurisdiction over the project;

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

- (C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study.
- (2) STATE AUTHORITY- If the environmental review process is being implemented by the Secretary for a project study within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that--
 - (A) have jurisdiction over the project;
 - (B) are required to conduct or issue a review, analysis, opinion, or statement for the project study; or
 - (C) are required to make a determination on issuing a permit, license, or other approval or decision for the project study.
- (3) INVITATION-
 - (A) IN GENERAL- The Federal lead agency shall invite, as early as practicable in the environmental review process, any agency identified under paragraph (1) to become a participating or cooperating agency, as applicable, in the environmental review process for the project study.
 - (B) DEADLINE- An invitation to participate issued under subparagraph (A) shall set a deadline by which a response to the invitation shall be submitted, which may be extended by the Federal lead agency for good cause.
- (4) PROCEDURES- Section 1501.6 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the Bureau of Reclamation Surface Water Storage Streamlining Act) shall govern the identification and the participation of a cooperating agency.
- (5) FEDERAL COOPERATING AGENCIES- Any Federal agency that is invited by the Federal lead agency to participate in the environmental review process for a project study shall be designated as a cooperating agency by the Federal lead agency unless the invited agency informs the Federal lead agency, in writing, by the deadline specified in the invitation that the invited agency--
 - (A)(i) has no jurisdiction or authority with respect to the project;
 - (ii) has no expertise or information relevant to the project; or
 - (iii) does not have adequate funds to participate in the project; and
 - (B) does not intend to submit comments on the project.
- (6) ADMINISTRATION- A participating or cooperating agency shall comply with this section and any schedule established under this section.
- (7) EFFECT OF DESIGNATION- Designation as a participating or cooperating agency under this subsection shall not imply that the participating or cooperating agency--
 - (A) supports a proposed project; or
 - (B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.
- (8) CONCURRENT REVIEWS- Each participating or cooperating agency shall--
 - (A) carry out the obligations of that agency under other applicable law concurrently and in conjunction with the required environmental review process, unless doing so would prevent the participating or cooperating

agency from conducting needed analysis or otherwise carrying out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) Programmatic Compliance-

(1) IN GENERAL- The Secretary shall issue guidance regarding the use of programmatic approaches to carry out the environmental review process that--

(A) eliminates repetitive discussions of the same issues;

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

(C) establishes a formal process for coordinating with participating and cooperating agencies, including the creation of a list of all data that are needed to carry out an environmental review process; and

(D) complies with--

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

(ii) all other applicable laws.

(2) REQUIREMENTS- In carrying out paragraph (1), the Secretary shall--

(A) as the first step in drafting guidance under that paragraph, consult with relevant Federal, State, and local governmental agencies, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

(B) emphasize the importance of collaboration among relevant Federal, State, and local governmental agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographical scope;

(C) ensure that the programmatic reviews--

(i) promote transparency, including of the analyses and data used in the environmental review process, the treatment of any deferred issues raised by Federal, State, and local governmental agencies, Indian tribes, or the public, and the temporal and special scales to be used to analyze those issues;

(ii) use accurate and timely information in the environmental review process, including--

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

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

(iii) describe--

(I) the relationship between programmatic analysis and future tiered analysis; and

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

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

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

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

(f) Coordinated Reviews-

(1) COORDINATION PLAN-

(A) ESTABLISHMENT- The Federal lead agency shall, after consultation with and with the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, establish a plan for coordinating public and agency participation in, and comment on, the environmental review process for a project study or a category of project studies.

(B) SCHEDULE-

(i) IN GENERAL- As soon as practicable but not later than 45 days after the close of the public comment period on a draft environmental impact statement, the Federal lead agency, after consultation with and the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, shall establish, as part of the coordination plan established in subparagraph (A), a schedule for completion of the environmental review process for the project study.

(ii) FACTORS FOR CONSIDERATION- In establishing a schedule, the Secretary shall consider factors such as--

(I) the responsibilities of participating and cooperating agencies under applicable laws;

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

(III) the overall size and complexity of the project;

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

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

(iii) MODIFICATIONS- The Secretary may--

(I) lengthen a schedule established under clause (i) for good cause; and

(II) shorten a schedule only with concurrence of the affected participating and cooperating agencies and the project sponsor or joint lead agency, as applicable.

(iv) DISSEMINATION- A copy of a schedule established under clause (i) shall be--

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

(II) made available to the public.

(2) COMMENT DEADLINES- The Federal lead agency shall establish the following deadlines for comment during the environmental review process for a project study:

(A) DRAFT ENVIRONMENTAL IMPACT STATEMENTS- For comments by Federal and States agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of the draft environmental impact statement, unless--

- (i) a different deadline is established by agreement of the Federal lead agency, the project sponsor or joint lead agency, as applicable, and all participating and cooperating agencies; or
- (ii) the deadline is extended by the Federal lead agency for good cause.

(B) OTHER ENVIRONMENTAL REVIEW PROCESSES- For all other comment periods established by the Federal lead agency for agency or public comments in the environmental review process, a period of not more than 30 days after the date on which the materials on which comment is requested are made available, unless--

- (i) a different deadline is established by agreement of the Federal lead agency, the project sponsor, or joint lead agency, as applicable, and all participating and cooperating agencies; or
- (ii) the deadline is extended by the Federal lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS- In any case in which a decision under any Federal law relating to a project study, including the issuance or denial of a permit or license, is required to be made by the date described in subsection (h)(5)(B), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate--

(A) as soon as practicable after the 180-day period described in subsection (h)(5)(B), an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project study have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC- Nothing in this subsection reduces any time period provided for public comment in the environmental review process under applicable Federal law (including regulations).

(5) TRANSPARENCY REPORTING-

(A) REPORTING REQUIREMENTS- Not later than 1 year after the date of enactment of this Act, the Secretary shall establish and maintain an electronic database and, in coordination with other Federal and State agencies, issue reporting requirements to make publicly available the status and progress with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval or action required for a project study for which this section is applicable.

(B) PROJECT STUDY TRANSPARENCY- Consistent with the requirements established under subparagraph (A), the Secretary shall make publicly available the status and progress of any Federal, State, or local decision, action, or approval required under applicable laws for each project study for which this section is applicable.

(g) Issue Identification and Resolution-

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

(2) FEDERAL LEAD AGENCY RESPONSIBILITIES-

(A) IN GENERAL- The Federal lead agency shall make information available to the cooperating agencies and participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) DATA SOURCES- The information under subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES-

Based on information received from the Federal lead agency, cooperating and participating agencies shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project, including any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project study.

(4) ACCELERATED ISSUE RESOLUTION AND ELEVATION-

(A) IN GENERAL- On the request of a participating or cooperating agency or project sponsor, the Secretary shall convene an issue resolution meeting with the relevant participating and cooperating agencies and the project sponsor or joint lead agency, as applicable, to resolve issues that may--

- (i) delay completion of the environmental review process; or
- (ii) result in denial of any approval required for the project study under applicable laws.

(B) MEETING DATE- A meeting requested under this paragraph shall be held not later than 21 days after the date on which the Secretary receives the request for the meeting, unless the Secretary determines that there is good cause to extend that deadline.

(C) NOTIFICATION- On receipt of a request for a meeting under this paragraph, the Secretary shall notify all relevant participating and cooperating agencies of the request, including the issue to be resolved and the date for the meeting.

(D) ELEVATION OF ISSUE RESOLUTION- If a resolution cannot be achieved within the 30-day period beginning on the date of a meeting under this paragraph and a determination is made by the Secretary that all

information necessary to resolve the issue has been obtained, the Secretary shall forward the dispute to the heads of the relevant agencies for resolution.

(E) CONVENTION BY SECRETARY- The Secretary may convene an issue resolution meeting under this paragraph at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under subparagraph (A).

(5) FINANCIAL PENALTY PROVISIONS-

(A) IN GENERAL- A Federal jurisdictional agency shall complete any required approval or decision for the environmental review process on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE-

(i) IN GENERAL-

(I) TRANSFER OF FUNDS- If a Federal jurisdictional agency fails to render a decision required under any Federal law relating to a project study that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, statement, opinion, or other approval by the date described in clause (ii), the amount of funds made available to support the office of the head of the Federal jurisdictional agency shall be reduced by an amount of funding equal to the amount specified in item (aa) or (bb) of subclause (II), and those funds shall be made available to the division of the Federal jurisdictional agency charged with rendering the decision by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C).

(II) AMOUNT TO BE TRANSFERRED- The amount referred to in subclause (I) is--

(aa) \$20,000 for any project study requiring the preparation of an environmental assessment or environmental impact statement; or

(bb) \$10,000 for any project study requiring any type of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) other than an environmental assessment or environmental impact statement.

(ii) DESCRIPTION OF DATE- The date referred to in clause (i) is the later of--

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

(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under

the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) LIMITATIONS-

(i) IN GENERAL- No transfer of funds under subparagraph (B) relating to an individual project study shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

(ii) FAILURE TO DECIDE- The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

(iii) AGGREGATE- Notwithstanding any other provision of law, for each fiscal year, the aggregate amount of financial penalties assessed against each applicable agency office under this Act and any other Federal law as a result of a failure of the agency to make a decision by an applicable deadline for environmental review, including the total amount transferred under this paragraph, shall not exceed an amount equal to 9.5 percent of the funds made available for the agency office for that fiscal year.

(D) NO FAULT OF AGENCY-

(i) IN GENERAL- A transfer of funds under this paragraph shall not be made if the applicable agency described in subparagraph (A) notifies, with a supporting explanation, the Federal lead agency, cooperating agencies, and project sponsor, as applicable, that--

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

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

(III) the agency lacks the financial resources to complete the review under the scheduled timeframe, including a description of the number of full-time employees required to complete the review, the amount of funding required to complete the review, and a justification as to why not enough funding is available to complete the review by the deadline.

(ii) LACK OF FINANCIAL RESOURCES- If the agency provides notice under clause (i)(III), the Inspector General of the agency shall--

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

(II) not later than 90 days after the date on which the review described in subclause (I) is completed, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the notice.

(E) LIMITATION- The Federal agency from which funds are transferred pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

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

(h) Memorandum of Agreements for Early Coordination-

(1) SENSE OF CONGRESS- It is the sense of Congress that--

(A) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other, State and local agencies, and Indian tribes on environmental review and Bureau of Reclamation project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, prevent potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(B) the cooperation referred to in subparagraph (A) should include the development of policies and the designation of staff that advise planning agencies and project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(2) TECHNICAL ASSISTANCE- If requested at any time by a State or project sponsor, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the maximum extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or project sponsor in carrying out early coordination activities.

(3) MEMORANDUM OF AGENCY AGREEMENT- If requested at any time by a State or project sponsor, the Federal lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, Indian tribes, State and local governments, and other appropriate entities to carry out the early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues in an integrated fashion.

(i) Limitations- Nothing in this section preempts or interferes with--

(1) any obligation to comply with the provisions of any Federal law, including--

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

(B) any other Federal environmental law;

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

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

(4) any power, jurisdiction, responsibility, duty, or authority that a Federal, State, or local governmental agency, Indian tribe, or project sponsor has with respect to carrying out a project or any other provision of law applicable to projects.

(j) Timing of Claims-

(1) TIMING-

(A) IN GENERAL- Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or other approval issued by a Federal agency for a project study shall be barred unless the claim is filed not later than 3 years after publication of a notice in the Federal Register announcing that the permit, license, or other approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law that allows judicial review.

(B) APPLICABILITY- Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or other approval.

(2) NEW INFORMATION-

(A) IN GENERAL- The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under title 40, Code of Federal Regulations (including successor regulations).

(B) SEPARATE ACTION- The preparation of a supplemental environmental impact statement or other environmental document, if required under this section, shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the action shall be 3 years after the date of publication of a notice in the Federal Register announcing the action relating to such supplemental environmental impact statement or other environmental document.

(k) Categorical Exclusions-

(1) IN GENERAL- Not later than 180 days after the date of enactment of this Act, the Secretary shall--

(A) survey the use by the Bureau of Reclamation of categorical exclusions in projects since 2005;

(B) publish a review of the survey that includes a description of--

(i) the types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion; and

(ii) any requests previously received by the Secretary for new categorical exclusions; and

(C) solicit requests from other Federal agencies and project sponsors for new categorical exclusions.

(2) NEW CATEGORICAL EXCLUSIONS- Not later than 1 year after the date of enactment of this Act, if the Secretary has identified a category of activities that merit establishing a categorical exclusion that did not exist on the day before the date of enactment this Act based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a

categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).

(l) Review of Project Acceleration Reforms-

(1) IN GENERAL- The Comptroller General of the United States shall--

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

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

(2) CONTENTS- The reports under paragraph (1) shall include an evaluation of impacts of the reforms carried out under this section on--

(A) project delivery;

(B) compliance with environmental laws; and

(C) the environmental impact of projects.

(m) Performance Measurement- The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

(n) Categorical Exclusions in Emergencies- For the repair, reconstruction, or rehabilitation of a Bureau of Reclamation surface water storage project that is in operation or under construction when damaged by an event or incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such repair, reconstruction, or rehabilitation activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations), if the repair or reconstruction activity is--

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

(2) commenced within a 2-year period beginning on the date of a declaration described in this subsection.

(e) ANNUAL REPORT TO CONGRESS.

(a) In General- Not later than February 1 of each year, the Secretary shall develop and submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report, to be entitled 'Report to Congress on Future Surface Water Storage Development', that identifies the following:

(1) PROJECT REPORTS- Each project report that meets the criteria established in subsection (c)(1)(A).

(2) PROPOSED PROJECT STUDIES- Any proposed project study submitted to the Secretary by a non-Federal interest pursuant to subsection (b) that meets the criteria established in subsection (c)(1)(A).

(3) **PROPOSED MODIFICATIONS-** Any proposed modification to an authorized surface water storage project or project study that meets the criteria established in subsection (c)(1)(A) that--

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

(B) is identified by the Secretary for authorization.

(b) **Requests for Proposals-**

(1) **PUBLICATION-** Not later than May 1 of each year, the Secretary shall publish in the Federal Register a notice requesting proposals from non-Federal interests for proposed project studies and proposed modifications to authorized surface water storage projects and project studies to be included in the annual report.

(2) **DEADLINE FOR REQUESTS-** The Secretary shall include in each notice required by this subsection a requirement that non-Federal interests submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in the Federal Register in order for the proposals to be considered for inclusion in the annual report.

(3) **NOTIFICATION-** On the date of publication of each notice required by this subsection, the Secretary shall--

(A) make the notice publicly available, including on the Internet; and

(B) provide written notification of the publication to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) **Contents-**

(1) **PROJECT REPORTS, PROPOSED PROJECT STUDIES, AND PROPOSED MODIFICATIONS-**

(A) **CRITERIA FOR INCLUSION IN REPORT-** The Secretary shall include in the annual report only those project reports, proposed project studies, and proposed modifications to authorized surface water storage projects and project studies that--

(i) are related to the missions and authorities of the Bureau of Reclamation;

(ii) require specific congressional authorization, including by an Act of Congress;

(iii) have not been congressionally authorized;

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

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

(B) **DESCRIPTION OF BENEFITS-**

(i) **DESCRIPTION-** The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed project study and proposed modification to an authorized water resources development project or project study included in the annual report, the benefits, as described in clause (ii), of each such study or proposed modification.

(ii) BENEFITS- The benefits (or expected benefits, in the case of a proposed project study) described in this clause are benefits to--

(I) the protection of human life and property;

(II) improvement to domestic irrigated water and power supplies;

(III) the national economy;

(IV) the environment; or

(V) the national security interests of the United States.

(C) IDENTIFICATION OF OTHER FACTORS- The Secretary shall identify in the annual report, to the extent practicable--

(i) for each proposed project study included in the annual report, the non-Federal interest that submitted the proposed project study pursuant to subsection (b); and

(ii) for each proposed project study and proposed modification to a surface water storage project or project study included in the annual report, whether the non-Federal interest has demonstrated--

(I) that local support exists for the proposed project study or proposed modification to an authorized surface water storage project or project study (including the surface water storage development project that is the subject of the proposed feasibility study or the proposed modification to an authorized project study); and

(II) the financial ability to provide the required non-Federal cost share.

(2) TRANSPARENCY- The Secretary shall include in the annual report, for each project report, proposed project study, and proposed modification to a surface water storage project or project study included under paragraph (1)(A)--

(A) the name of the associated non-Federal interest, including the name of any non-Federal interest that has contributed, or is expected to contribute, a non-Federal share of the cost of--

(i) the project report;

(ii) the proposed project study;

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

(iv) construction of--

(I) the surface water storage project that is the subject of--

(aa) the water report;

(bb) the proposed project study; or

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

(II) the proposed modification to a surface water storage development project;

(B) a letter or statement of support for the water report, proposed project study, or proposed modification to an authorized surface water storage development project or project study from each associated non-Federal interest;

(C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to an authorized surface water storage project or project study;

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

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

(ii) construction of--

(I) the surface water storage development project that is the subject of--

(aa) the project report; or

(bb) the authorized project study for which a modification is proposed, with respect to the change in costs resulting from such modification; or

(II) the proposed modification to an authorized surface water storage development project; and

(E) an estimate, to the extent practicable, of the monetary and nonmonetary benefits of--

(i) the surface water storage development project that is the subject of--

(I) the project report; or

(II) the authorized project study for which a modification is proposed, with respect to the benefits of such modification; or

(ii) the proposed modification to an authorized surface water storage development project.

(3) CERTIFICATION- The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to a surface water storage project or project study included in the annual report meets the criteria established in paragraph (1)(A).

(4) APPENDIX- The Secretary shall include in the annual report an appendix listing the proposals submitted under subsection (b) that were not included in the annual report under paragraph (1)(A) and a description of why the Secretary determined that those proposals did not meet the criteria for inclusion under such paragraph.

(d) Special Rule for Initial Annual Report- Notwithstanding any other deadlines required by this section, the Secretary shall--

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a notice required by subsection (b)(1); and

(2) include in such notice a requirement that non-Federal interests submit to the Secretary any proposals described in subsection (b)(1) by not later than 120 days

after the date of publication of such notice in the Federal Register in order for such proposals to be considered for inclusion in the first annual report developed by the Secretary under this section.

(e) Publication- Upon submission of an annual report to Congress, the Secretary shall make the annual report publicly available, including through publication on the Internet.

(f) Definition- In this section the term 'project report' means a final feasibility report developed under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

Sec. 704. Environmental Procedures Streamlining

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a water infrastructure project delivery program (referred to in this section as the “program”).

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more eligible water infrastructure projects described in subparagraph (B) within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ELIGIBLE WATER INFRASTRUCTURE PROJECTS.—In this section the term “eligible water infrastructure projects” means projects for which a non-Federal entity has lead responsibility for approving the overall project, including projects for which federal agency permitting is required or some federal funding is provided.

(C) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

(ii) at the request of the State, the Secretary may also assign to the State, and the State may assume, the responsibilities of the Secretary with respect to 1 or more eligible water infrastructure projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(D) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

(E) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

(F) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of the Interior, under applicable law (including regulations) with respect to a project.

(G) PRESERVATION OF FLEXIBILITY.— The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.

(b) STATE PARTICIPATION.—

(1) PARTICIPATING STATES. — California is eligible to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date of enactment, the Secretary shall amend, as appropriate, regulations that establish requirements relating to information required to be contained in an application of a State to participate in the program, including, at a minimum—

(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—The State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the state.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

(A) the regulatory requirements under paragraph (2) have been met;

(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

(C) the head of the State agency having primary jurisdiction over water infrastructure matters enters into a written agreement with the Secretary described in subsection (c).

(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) be executed by the Governor or the top ranking water infrastructure official in the State who is charged with responsibility for water infrastructure construction;

- (2) be in such form as the Secretary may prescribe;
- (3) provide that the State—
 - (A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);
 - (B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;
 - (C) certifies that State laws (including regulations) are in effect that authorize the State to take the actions necessary to carry out the responsibilities being assumed; and
 - (D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed;
- (4) require the State to provide to the Secretary any information that the Secretary considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;
- (5) have a term of not more than 5 years; and
- (6) be renewable.

(d) JURISDICTION.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.— A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (j).

(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

- (A) semiannual audits during each of the first 2 years of State participation; and
- (B) annual audits during of the third and fourth years of State participation.

(2) PUBLIC AVAILABILITY AND COMMENT.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

(h) **MONITORING.** — After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

(j) **TERMINATION.** —

(1) **TERMINATION BY SECRETARY.**—The Secretary may terminate the participation of any State in the program if—

(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(B) the Secretary provides to the State—

(i) notification of the determination of noncompliance; and

(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.

(2) **TERMINATION BY THE STATE.** — The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.

Section 705 Water Rights Protections.

(a) Treatment of Water Rights.

The Secretary of the Interior and the Secretary of Agriculture--

(1) shall not condition the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on the transfer of any water right (including joint and sole ownership) directly to the United States, or any impairment of title, in whole or in part, granted or otherwise recognized under State law, by Federal or State adjudication, decree, or other judgment, or pursuant to any interstate water compact; and

(2) shall not require any water user (including any federally recognized Indian tribe) to apply for or acquire a water right in the name of the United States under State law as a condition of the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement.

(b) Definition.

For purposes of this Act, the term `water right' means any surface, groundwater, or storage use filed, permitted, certificated, confirmed, decreed, adjudicated, or otherwise recognized by a judicial proceeding or by the State in which the user acquires

possession of the water or puts it to beneficial use. Such term shall include water rights for federally recognized Indian tribes.

c) Impacts on Existing Authorities.

- (1) Nothing in this Act limits or expands any existing legally recognized authority of the Secretaries to issue, grant, or condition any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on Federal lands subject to their respective jurisdictions.
- (2) Nothing in this Act shall in any way interfere with existing or future Bureau of Reclamation contracts entered into pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act).
- (3) Nothing in this Act shall affect the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
- (4) Nothing in this Act limits or expands any existing reserved water rights of the Federal Government on lands administered by the Secretary of the Interior or the Secretary of Agriculture.
- (5) Nothing in this Act limits or expands authorities pursuant to sections 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j), and 811).
- (6) Nothing in this Act limits or expands any existing reserved water right or treaty right of any federally recognized Indian tribe.