

114TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

8 (a) MODIFICATION OF TERMS.—

1 (1) IN GENERAL.—Title XII of Public Law
2 103–434 (108 Stat. 4550) is amended—

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

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

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

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

11 (B) in subsection (g), in the subsection
12 heading, by striking “YAKAMA INDIAN NA-
13 TION” and inserting “YAKAMA NATION”.

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

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

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

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

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

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

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

8 “(D) protection, creation, and enhance-
9 ment of wetlands; and

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

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

18 (3) by striking paragraph (4);

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

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

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

1 ipal, industrial, and domestic water supply pur-
2 poses;”;

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

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

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

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

13 “(8) to authorize and implement the Yakima
14 River Basin Integrated Water Resources Manage-
15 ment Plan as Phase III of the Yakima River Basin
16 Water Enhancement Project, in a balanced approach
17 to maximize benefits to the communities and envi-
18 ronment in the Basin.”.

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

21 (1) by redesignating paragraphs (6), (7), (8),
22 (9), (10), (11), (12), (13), and (14) as paragraphs
23 (7), (10), (11), (12), (13), (14), (15), (17), and
24 (19), respectively;

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

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

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

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

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

22 “(A) domestic consumption (whether urban
23 or rural);

24 “(B) maintenance and protection of public
25 health and safety;

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

4 “(D) production of energy;

5 “(E) fish hatcheries; or

6 “(F) any conservation activity relating to a
7 use described in any of subparagraphs (A)
8 through (E).”;

9 (4) by inserting after paragraph (15) (as reded-
10 signed by paragraph (1)) the following:

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

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

16 “(B) includes representatives of—

17 “(i) the Yakama Nation;

18 “(ii) Federal and State governments;

19 “(iii) participating county and city
20 governments;

21 “(iv) environmental organizations; and

22 “(v) irrigation districts; and

23 “(C) is not subject to the Federal Advisory
24 Committee Act (5 U.S.C. App.).”; and

1 (5) by inserting after paragraph (17) (as reded-
2 ignated by paragraph (1)) the following:

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

17 **SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PRO-**
18 **GRAM.**

19 Section 1203 of Public Law 103–434 (108 Stat.
20 4551) is amended—

21 (1) in subsection (a)—

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

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

4 (2) in subsection (c)—

5 (A) in paragraph (2)—

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

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

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

17 (iv) by striking subparagraph (G);

18 (B) in paragraph (3)—

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (5) in subsection (i)(3)—

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

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

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

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

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

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

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

19 (1) in subsection (a)—

20 (A) in paragraph (4)—

21 (i) in subparagraph (A)—

22 (I) in clause (i)—

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

1 (bb) by striking “flushing”
2 and inserting “pulse”; and

3 (cc) by striking “uses” and
4 inserting “uses, in addition to the
5 quantity of water provided under
6 the treaty between the Yakama
7 Nation and the United States”;

8 (II) by striking clause (ii);

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

11 (IV) in clause (ii) (as so redesign-
12 nated) by inserting “and water rights
13 mandated” after “goals”;

14 (ii) in subparagraph (B)—

15 (I) in clause (i), in the first sen-
16 tence, by inserting “in proportion to
17 the funding received” after “Pro-
18 gram”; and

19 (II) by adding at the end the fol-
20 lowing:

21 “(iii) CALCULATIONS AND DETER-
22 MINATIONS.—The Yakima Project Man-
23 ager shall—

24 “(I) calculate the total amount of
25 water conserved and acquired;

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

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

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

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

14 (iii) by striking subparagraph (D);

15 and

16 (B) by striking paragraph (6);

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

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

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

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

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

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

16 “(1) IN GENERAL.—There is”; and

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

18 “(2) COST SHARING.—

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

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

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

8 (1) in subsection (a)—

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

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

14 (C) in paragraph (2)—

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

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

23 (2) in subsection (b)—

24 (A) in paragraph (1)—

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

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

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

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

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

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

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

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

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

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

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

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

6
7 (B) in paragraph (2)—

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

11
12 (ii) in subparagraph (B)—

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

15
16 (II) by striking “and” at the end;

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

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

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

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

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

7 (4) by striking subsection (d);

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

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

12 (A) in the first sentence—

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

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

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

19 (B) by striking the second sentence.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(a) MANAGEMENT PLAN IMPLEMENTATION.—

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

24 “(2) INITIAL DEVELOPMENT PHASE.—

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

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

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

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

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

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

8 “(3) INTERMEDIATE AND FINAL PHASES.—

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

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

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

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

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

9 “(4) PROGRESS REPORT.—

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

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

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

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

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

13 “(iv) for water supply projects—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(d) FEDERAL COST-SHARE.—

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

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

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

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

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

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

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

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

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

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

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

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