

114TH CONGRESS
2D SESSION

S. _____

To provide short-term water supplies to drought-stricken California and provide for long-term investments in drought resiliency throughout the Western United States.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide short-term water supplies to drought-stricken California and provide for long-term investments in drought resiliency throughout the Western United States.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “California Long-Term Provisions for Water Supply and
6 Short-Term Provisions for Emergency Drought Relief
7 Act”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 this Act is as follows:

2

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Findings.
- Sec. 4. Definitions.

TITLE I—LONG-TERM IMPROVEMENTS FOR WESTERN STATES
SUBJECT TO DROUGHT

Subtitle A—Assistance for Drought-stricken Communities

- Sec. 101. Assistance for drought-stricken communities and WaterSMART reauthorization.
- Sec. 102. Utilizing State revolving funds for areas with inadequate water supplies.

Subtitle B—Storage Provisions

- Sec. 111. Definitions.
- Sec. 112. Water storage project construction.
- Sec. 113. Reservoir operation improvement.
- Sec. 114. Findings.
- Sec. 115. Studies.
- Sec. 116. Losses caused by construction and operation of water storage projects.

Subtitle C—Desalination, Water Reuse and Recycling, and Conservation

- Sec. 121. Water recycling and desalination projects.
- Sec. 122. Reauthorization of Water Desalination Act.
- Sec. 123. New water recycling and reuse projects.
- Sec. 124. Promoting water efficiency with WaterSense.

Subtitle D—Reclamation Infrastructure Finance and Innovation

- Sec. 131. Purposes.
- Sec. 132. Definitions.
- Sec. 133. Authority to provide assistance.
- Sec. 134. Applications.
- Sec. 135. Eligibility for assistance.
- Sec. 136. Determination of eligibility and project selection.
- Sec. 137. Secured loans.
- Sec. 138. Program administration.
- Sec. 139. State and local permits.
- Sec. 140. Regulations.
- Sec. 141. Funding.

TITLE II—LISTED SPECIES AND WILDLIFE

- Sec. 201. Actions to benefit endangered fish populations.
- Sec. 202. Actions to benefit refuges.
- Sec. 203. Non-Federal program to protect native anadromous fish in Stanislaus River.
- Sec. 204. Pilot projects to implement Calfed invasive species program.

TITLE III—CALIFORNIA EMERGENCY DROUGHT RELIEF AND
OPERATIONAL FLEXIBILITY

- Sec. 301. Taking into account increased real-time monitoring and updated science.
- Sec. 302. Emergency operations.
- Sec. 303. Temporary operational flexibility to capture peak flows from winter storms.
- Sec. 304. Emergency environmental reviews.
- Sec. 305. Level of detail required for analysis.

TITLE IV—WATER RIGHTS

- Sec. 401. Offset for State Water Project.
- Sec. 402. Area of origin and water rights protections.
- Sec. 403. No redirected adverse impacts.
- Sec. 404. Allocations for Sacramento Valley water service contractors.

TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Authorized service area.
- Sec. 502. Oversight over and public input into Restoration Fund activities.
- Sec. 503. Basin studies.
- Sec. 504. Technical and modeling assistance.
- Sec. 505. Report on results of water usage.
- Sec. 506. Additional storage at New Melones.
- Sec. 507. Contracting authorities.
- Sec. 508. Voluntary open water data system.
- Sec. 509. Single annual report.

TITLE VI—OFFSETS

- Sec. 601. Deauthorization of inactive projects.
- Sec. 602. Accelerated revenue, repayment, and surface water storage enhancement.

TITLE VII—DURATION AND EFFECT ON EXISTING OBLIGATIONS

- Sec. 701. Savings clause.
- Sec. 702. Termination.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to help communities most at risk of running
4 out of clean water;

5 (2) to provide funding and support for long-
6 term solutions including water storage, desalination
7 and recycling;

8 (3) to protect threatened and endangered spe-
9 cies; and

1 (4) to facilitate the movement of water to com-
2 munities most in need while adhering to all environ-
3 mental laws.

4 **SEC. 3. FINDINGS.**

5 Congress finds that—

6 (1) California is experiencing one of the most
7 severe droughts on record, with the snowpack at the
8 lowest levels in 500 years;

9 (2) Governor Jerry Brown declared a drought
10 state of emergency on January 17, 2014, and subse-
11 quently imposed strict water reductions on commu-
12 nities throughout the State;

13 (3) the drought constitutes a serious emergency
14 that poses immediate and severe risks to—

15 (A) human health and safety;

16 (B) economic security; and

17 (C) the environment;

18 (4) wells that provide households with clean
19 water have dried up due to 4 consecutive years of
20 drought, with approximately 2,591 domestic wells
21 statewide identified as critical or dry, affecting an
22 estimated 12,955 residents, many in the Central
23 Valley;

24 (5) rural and disadvantaged communities have
25 been hardest hit, placing great strain on drinking

1 water supplies in the Southern San Joaquin Val-
2 ley—

3 (A) 69 communities in Southern San Joa-
4 quin Valley have reported significant water sup-
5 ply and quality issues; and

6 (B) East Porterville is particularly hard
7 hit, with 40 percent, or 3,000, of its residents,
8 without running water;

9 (6) the State of California's water supplies are
10 at record-low levels, as indicated by the fact that
11 major Central Valley Project reservoir levels were
12 anywhere from 30 percent to 79 percent of their his-
13 torical average as of February 8, 2016;

14 (7) while storage levels are below their histor-
15 ical averages, snowpack is the deepest it's been since
16 2005, the State of California's Department of Water
17 Resources found in its survey conducted on Feb-
18 ruary 2, 2016, that the snow-water equivalent (the
19 amount of water in the snowpack) was 130 percent
20 above the February average;

21 (8) the drought has resulted in many lost jobs
22 including more than 21,000 seasonal and part-time
23 agricultural jobs—resulting in a 10.9 percent unem-
24 ployment rate in the Central Valley, double the

1 statewide unemployment rate of 5.7 percent, as of
2 December 15, 2015;

3 (9) thousands of families have been affected,
4 placing ever greater demands on food banks and
5 other relief organizations, and as of December 21,
6 2015—

7 (A) the California Department of Social
8 Services Drought Food Assistance Program has
9 provided more than 1,000,000 boxes to food
10 banks in affected communities with high levels
11 of unemployment; and

12 (B) nearly 72 percent of the food distribu-
13 tions have occurred in the Tulare Basin coun-
14 ties of Fresno, Kern, Kings, and Tulare;

15 (10) 2015 statewide economic costs are esti-
16 mated at \$2,700,000,00, including but not limited
17 to—

18 (A) the loss of \$900,000,000 in crop rev-
19 enue;

20 (B) the loss of \$350,000,000 in dairy and
21 other livestock value; and

22 (C) an increase of \$590,000,000 in
23 groundwater pumping costs;

1 (11) 1,032,508 acres in California's Central
2 Valley were fallowed in 2015, a 626,512 acre in-
3 crease from 2011;

4 (12) the drought is imperiling California's for-
5 ests, which provide important ecological, economic,
6 and cultural benefits to the State, and among the ef-
7 fects of the drought—

8 (A) loss of 50,000,000 large trees due to
9 stress from lack of water;

10 (B) 888,000,000 trees, covering
11 26,000,000 acres of California forestland, expe-
12 rienced losses of canopy cover since 2011,
13 threatening ecosystem destruction and loss of
14 animal habitat; and

15 (C) 6,337 fires covering 307,598 acres oc-
16 curred in 2015;

17 (13) fish continue to be threatened by the ex-
18 tended drought, compounding effects on two endan-
19 gered species, further reducing river flows and in-
20 creasing water temperatures—

21 (A) Delta smelt abundance are at a his-
22 toric low, as evidenced by long-term monitoring
23 surveys; and

24 (B) the abundance of the last remaining
25 population of wild Sacramento River winter run

1 Chinook salmon continue to decline, with mor-
2 tality rates between 95 percent and 97 percent
3 over the past 2 years , according to the Na-
4 tional Oceanic and Atmospheric Administration;
5 (14) wildlife has also been affected, with Level
6 2 water deliveries to wildlife refuges under the Cen-
7 tral Valley Project Improvement Act reduced by 25
8 percent in the north-of-Delta region and 35 percent
9 in the south-of-Delta region, and delivery schedules
10 shortened to only the winter months, and—

11 (A) these reduced water supplies have con-
12 tributed to a decline of the Pacific Flyway, a
13 migratory route for waterfowl that spans from
14 Alaska to South America;

15 (B) the reduction in water supplies has led
16 to a significant decline in flooded rice fields, a
17 vital habitat for migratory birds. Only one-third
18 of the usual acres of rice fields were flooded in
19 2015; and

20 (C) the reduction of available habitat for
21 migratory waterfowl contributed to a decreased
22 food availability in wildlife refuges and an in-
23 creased risk of disease due to overcrowding of
24 birds;

1 (15) subsidence in California is occurring at
2 more than 12 inches per year, caused in part by an
3 increase in groundwater pumping of more than
4 6,000,000 acre feet, some areas in the Central Val-
5 ley have sunk as much as 2 inches per month, and
6 the damage from subsidence is wide-ranging—

7 (A) roads, bridges, building foundations,
8 pipelines, canals, dams, and other infrastruc-
9 ture has been damaged;

10 (B) vital aquifers have been depleted;

11 (C) vital levees have sustained cracks and
12 ruptures; and

13 (D) shallow aquifers have become vulner-
14 able to contamination as surface water infil-
15 trates through fissures in the soil;

16 (16) the California Department of Water Re-
17 sources identified 21 groundwater basins where ex-
18 cessive groundwater pumping has resulted in over-
19 draft, 11 of which are in the San Joaquin Valley;

20 (17) California homes, cities, wildlife, busi-
21 nesses and farming need more water than is avail-
22 able today, particularly in the San Joaquin Valley;

23 (18) Congress recognizes that providing more
24 water to those who need it most will require science-

1 based management of water supplies and fish and
2 wildlife resources, including—

3 (A) alternative management strategies,
4 such as removing nonnative species, enhancing
5 habitat, monitoring fish movement and location
6 in real-time, and improving water quality in the
7 Delta, which could contribute significantly to
8 protecting and recovering those endangered fish
9 species, and at potentially lower costs to water
10 supplies than solely focusing on restrictions on
11 water exports; and

12 (B) updated science and improved moni-
13 toring tools that provide Federal and State
14 agencies with better information about condi-
15 tions and operations that may or may not lead
16 to high salvage events that jeopardize fish pop-
17 ulations; and

18 (19) given the dire effects outlined above and
19 the potential for continued harm, this emergency re-
20 quires—

21 (A) immediate and credible action that
22 takes into account the complexity and impor-
23 tance of the water system to the State; and

24 (B) policies that do not position stake-
25 holders against one another, which in the past

1 has led to costly litigation that benefits no one
2 and prevents any real solutions.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) ASSISTANT ADMINISTRATOR.—The term
6 “Assistant Administrator” means the Assistant Ad-
7 ministrators for Fisheries of the National Oceanic
8 and Atmospheric Administration.

9 (2) CENTRAL VALLEY PROJECT.—The term
10 “Central Valley Project” has the meaning given the
11 term in section 3403 of the Central Valley Project
12 Improvement Act (Public Law 102–575; 106 Stat.
13 4707).

14 (3) COMMISSIONER.—The term “Commis-
15 sioner” means the Commissioner of Reclamation.

16 (4) DELTA.—The term “Delta” means the Sac-
17 ramento-San Joaquin Delta and the Suisun Marsh
18 (as defined in section 12220 of the California Water
19 Code and section 29101 of the California Public Re-
20 sources Code (as in effect on the date of enactment
21 of this Act)).

22 (5) DELTA SMELT.—The term “Delta smelt”
23 means the fish species with the scientific name
24 *Hypomesus transpacificus*.

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

4 (7) LISTED FISH SPECIES.—The term “listed
5 fish species” means—

6 (A) any natural origin steelhead, natural
7 origin genetic spring run Chinook, or genetic
8 winter run Chinook salmon (including any
9 hatchery steelhead or salmon population within
10 the evolutionary significant unit or a distinct
11 population segment); and

12 (B) Delta smelt.

13 (8) OMR.—The term “OMR” means the Old
14 and Middle River in the Delta.

15 (9) OMR FLOW.—The term “OMR flow” means
16 Old and Middle River flow of any given measure-
17 ment, expressed in cubic feet per second, as de-
18 scribed in—

19 (A) the smelt biological opinion; and

20 (B) the salmonid biological opinion.

21 (10) RECLAMATION STATE.—The term “Rec-
22 lamation State” means any of the States of—

23 (A) Arizona;

24 (B) California;

25 (C) Colorado;

- 1 (D) Idaho;
2 (E) Kansas;
3 (F) Montana;
4 (G) Nebraska;
5 (H) Nevada;
6 (I) New Mexico;
7 (J) North Dakota;
8 (K) Oklahoma;
9 (L) Oregon;
10 (M) South Dakota;
11 (N) Texas;
12 (O) Utah;
13 (P) Washington; and
14 (Q) Wyoming.

15 (11) SALMONID BIOLOGICAL OPINION.—

16 (A) IN GENERAL.—The term “salmonid bi-
17 ological opinion” means the biological and con-
18 ference opinion of the National Marine Fish-
19 eries Service dated June 4, 2009, regarding the
20 long-term operation of the Central Valley
21 Project and the State Water Project, and suc-
22 cessor biological opinions.

23 (B) INCLUSIONS.—The term “salmonid bi-
24 ological opinion” includes the operative inci-

1 dental take statement of the opinion described
2 in subparagraph (A).

3 (12) SMELT BIOLOGICAL OPINION.—

4 (A) IN GENERAL.—The term “smelt bio-
5 logical opinion” means the biological opinion
6 dated December 15, 2008, regarding the coordi-
7 nated operation of the Central Valley Project
8 and the State Water Project, and successor bio-
9 logical opinions.

10 (B) INCLUSIONS.—The term “smelt bio-
11 logical opinion” includes the operative inci-
12 dental take statement of the opinion described
13 in subparagraph (A).

14 (13) STATE WATER PROJECT.—The term
15 “State Water Project” means the water project de-
16 scribed in chapter 5 of part 3 of division 6 of the
17 California Water Code (sections 11550 et seq.) (as
18 in effect on the date of enactment of this Act) and
19 operated by the California Department of Water Re-
20 sources.

1 **TITLE I—LONG-TERM IMPROVE-**
2 **MENTS FOR WESTERN**
3 **STATES SUBJECT TO**
4 **DROUGHT**

5 **Subtitle A—Assistance for Drought-**
6 **stricken Communities**

7 **SEC. 101. ASSISTANCE FOR DROUGHT-STRICKEN COMMU-**
8 **NITIES AND WATERSMART REAUTHORIZA-**
9 **TION.**

10 (a) FINDINGS.—Congress finds that—

11 (1) across the United States, more than 90 per-
12 cent of the community water systems serve popu-
13 lations of less than 10,000 individuals;

14 (2) the number of dry wells continues to in-
15 crease as the State of California entered the fourth
16 consecutive summer of drought, with approximately
17 2,591 wells statewide identified as critical or dry,
18 which affected an estimated 12,955 residents, with
19 2,444 of the 2,502 of the dry wells concentrated in
20 the inland regions within the Central Valley;

21 (3) many areas of the State of California are
22 disproportionately impacted by drought because the
23 areas are heavily dependent or completely reliant on
24 groundwater from basins that are in overdraft and

1 in which the water table declines year after year or
2 from basins that are contaminated; and

3 (4) those communities throughout the State of
4 California have been impacted by the presence of
5 naturally occurring arsenic in the groundwater
6 among other contaminants, as a result of higher
7 concentration of contaminants in the water.

8 (b) AMENDMENT.—Section 9504 of the Omnibus
9 Public Land Management Act of 2009 (42 U.S.C. 10364)
10 is amended—

11 (1) by redesignating subsections (b) through (e)
12 as subsections (d) through (f), respectively;

13 (2) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) WATER STORAGE, INTEGRATED REGIONAL
16 WATER MANAGEMENT, RECLAMATION, AND RECYCLING
17 PROJECTS.—

18 “(1) IN GENERAL.—The Secretary of the Inte-
19 rior is authorized to enter into cost shared financial
20 assistance and other long-term agreements with non-
21 Federal participants to advance the planning, de-
22 sign, and construction of non-Federal permanent
23 water storage and conveyance facilities, projects for
24 the reclamation and reuse of municipal, industrial,
25 domestic and agricultural wastewater, and naturally

1 impaired ground and surface waters, groundwater
2 recharge, and other water management improvement
3 projects for which the Secretary of the Interior is
4 authorized under this subtitle to assist an applicant
5 in the planning, design, and construction.

6 “(2) AUTHORITY TO PROVIDE ASSISTANCE.—
7 The Secretary of the Interior may provide financial
8 assistance under this subtitle to carry out projects
9 within—

10 “(A) any Reclamation State, including—

11 “(i) Arizona;

12 “(ii) California;

13 “(iii) Colorado;

14 “(iv) Idaho;

15 “(v) Kansas;

16 “(vi) Montana;

17 “(vii) Nebraska;

18 “(viii) Nevada;

19 “(ix) New Mexico;

20 “(x) North Dakota;

21 “(xi) Oklahoma;

22 “(xii) Oregon;

23 “(xiii) South Dakota;

24 “(xiv) Texas;

25 “(xv) Utah;

1 “(xvi) Washington;

2 “(xvii) Wyoming; and

3 “(B) the States of Alaska and Hawaii.

4 “(3) PRIORITY.—In providing financial assist-
5 ance under this section, the Secretary of the Interior
6 shall give priority to storage, conveyance, and water
7 management improvement projects that—

8 “(A) ensure the efficient and beneficial use
9 of water or reuse of recycled water;

10 “(B) use integrated and coordinated water
11 management on a watershed or regional scale;

12 “(C) increase the availability of usable
13 water supplies in a watershed or region to ben-
14 efit individuals, the economy, and the environ-
15 ment and include adaptive measures needed to
16 address climate change and future demands;

17 “(D) where practicable, provide flood con-
18 trol or recreation benefits and include the devel-
19 opment of incremental hydroelectric power gen-
20 eration; and

21 “(E) generate environmental benefits, such
22 as benefits to fisheries, wildlife and habitat,
23 water quality, water-dependent ecological sys-
24 tems, and water supply benefits to agricultural
25 and urban water users.

1 “(4) FEDERAL COST SHARE.—The Federal
2 share of the cost of a project under this subsection
3 shall be—

4 “(A) an amount equal to the lesser of—

5 “(i) 25 percent of total costs; and

6 “(ii) \$20,000,000 (adjusted for infla-
7 tion); and

8 “(B) nonreimbursable.

9 “(5) IN-KIND CONTRIBUTIONS.—The non-Fed-
10 eral share of the cost of a project under this sub-
11 section may include in-kind contributions to the
12 planning, design, and construction of the project.

13 “(6) TITLE; OPERATION AND MAINTENANCE
14 COSTS.—The non-Federal entity entering into a fi-
15 nancial assistance agreement under this subsection
16 shall—

17 “(A) hold title in and to all facilities con-
18 structed under this subsection, and

19 “(B) be solely responsible for the costs of
20 operating and maintaining those facilities.”;
21 and

22 (3) in subsection (f) (as redesignated by para-
23 graph (1)), by striking “\$350,000,000” and insert-
24 ing “\$500,000,000”.

1 (c) AMENDMENT.—Section 9508 of the Omnibus
2 Public Land Management Act of 2009 (42 U.S.C. 10368)
3 is amended—

4 (1) by redesignating subsections (b) through (e)
5 as subsections (c) through (f), respectively; and

6 (2) by inserting after subsection (a) the fol-
7 lowing:

8 “(b) ADDITIONAL ASSISTANCE FOR COMMUNITIES
9 WITHOUT ACCESS TO ADEQUATE WATER.—

10 “(1) IN GENERAL.—To assist disadvantaged
11 communities that have experienced a significant de-
12 cline in quantity or quality of drinking water, and to
13 obtain or maintain adequate quantities of water that
14 meet the standards set by the Federal Water Pollu-
15 tion Control Act (33 U.S.C. 1251 et seq.), the Sec-
16 retary of the Interior is authorized to provide grants
17 for communities—

18 “(A) that are unable to meet the primary
19 water quality standards under that Act; or

20 “(B) the local private or public water sup-
21 ply of which has been lost or severely dimin-
22 ished due to drought conditions.

23 “(2) ELIGIBLE COMMUNITIES.—To be eligible
24 to receive a grant under this subsection, a commu-

1 nity shall carry out a project described in paragraph
2 (3), the service area of which—

3 “(A) shall not be located in any city or
4 town with a population of more than 60,000
5 residents; and

6 “(B) has a median household income of
7 less than 100 percent of the nonmetropolitan
8 median household income of the State.

9 “(3) ELIGIBLE PROJECTS.—Projects eligible for
10 this program may be used for—

11 “(A) emergency water supplies;

12 “(B) point of use treatment and point of
13 entry systems;

14 “(C) distributed treatment facilities;

15 “(D) construction of new water source fa-
16 cilities including wells and connections to exist-
17 ing systems;

18 “(E) water distribution facilities;

19 “(F) connection fees to existing systems;

20 “(G) assistance to households to connect to
21 water facilities; and

22 “(H) any combination of activities de-
23 scribed in subparagraphs (A) through (G).

1 “(4) PRIORITIZATION.—In determining prior-
2 ities for funding projects, the Secretary of the Inte-
3 rior shall take into consideration—

4 “(A) where water outages—

5 “(i) are most serious; and

6 “(ii) pose the greatest threat to public
7 health and safety; and

8 “(B) whether the applicant has the ability
9 to qualify for alternative funding sources.

10 “(5) MAXIMUM AMOUNT.—The amount of a
11 grant provided under this section may be made up
12 to 100 percent of costs, including—

13 “(A) initial operation costs incurred for
14 start-up and testing of project facilities;

15 “(B) components to ensure such facilities
16 and components are properly operational; and

17 “(C) costs of operation or maintenance in-
18 curred subsequent to placing the facilities or
19 components into service.”.

20 **SEC. 102. UTILIZING STATE REVOLVING FUNDS FOR AREAS**
21 **WITH INADEQUATE WATER SUPPLIES.**

22 (a) IN GENERAL.—For the 5-year period beginning
23 on the date of enactment of this Act, in allocating amounts
24 to California from the Clean Water State Revolving Fund
25 established under title VI of the Federal Water Pollution

1 Control Act (33 U.S.C. 1381 et seq.) and the Drinking
2 Water State Revolving Fund established under section
3 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–
4 12) for any project eligible to receive assistance under sec-
5 tion 603 of the Federal Water Pollution Control Act (33
6 U.S.C. 1383) or section 1452(a)(2) of the Safe Drinking
7 Water Act (42 U.S.C. 300j–12(a)(2)), respectively, that
8 the State of California determines will provide additional
9 water supplies most expeditiously to areas that are at risk
10 of having an inadequate supply of water for public health
11 and safety purposes or to improve resiliency to drought,
12 the Administrator of the Environmental Protection Agen-
13 cy shall—

14 (1) require the State of California to review and
15 prioritize funding;

16 (2) make a finding on any request for a waiver
17 received from the State of California by not later
18 than 30 days after the date of conclusion of the in-
19 formal public comment period pursuant to section
20 436(c) of division G of Public Law 113–76 (128
21 Stat. 347); and

22 (3) authorize, at the request of the State of
23 California, 40-year financing for assistance under
24 section 603(d)(2) of the Federal Water Pollution
25 Control Act (33 U.S.C. 1383(d)(2)) or section

1 1452(f)(2) of the Safe Drinking Water Act (42
2 U.S.C. 300j–12(f)(2)), as applicable.

3 (b) EFFECT OF SECTION.—Nothing in this section
4 authorizes the Administrator of the Environmental Pro-
5 tection Agency to modify any funding allocation, funding
6 criteria, or other requirement relating to State water pol-
7 lution control revolving funds established under title VI
8 of the Federal Water Pollution Control Act (33 U.S.C.
9 1381 et seq.) or the State drinking water treatment re-
10 volving loan funds established under section 1452 of the
11 Safe Drinking Water Act (42 U.S.C. 300j–12) for any
12 State other than California.

13 **Subtitle B—Storage Provisions**

14 **SEC. 111. DEFINITIONS.**

15 In this subtitle:

16 (1) **FEDERALLY OWNED STORAGE PROJECT.**—

17 The term “federally owned storage project” means
18 any project involving a surface water storage facility
19 in a Reclamation State—

20 (A) to which the United States holds title;

21 and

22 (B) that was authorized to be constructed,
23 operated, and maintained pursuant to the rec-
24 lamation laws.

1 (2) STATE-LED STORAGE PROJECT.—The term
2 “State-led storage project” means any project in a
3 Reclamation State that—

4 (A) involves a groundwater or surface
5 water storage facility constructed, operated, and
6 maintained by any State, department of a
7 State, subdivision of a State, or public agency
8 organized pursuant to State law; and

9 (B) provides a benefit in meeting any obli-
10 gation under Federal law (including regula-
11 tions).

12 **SEC. 112. WATER STORAGE PROJECT CONSTRUCTION.**

13 (a) FEDERALLY OWNED STORAGE PROJECTS.—

14 (1) AGREEMENTS.—On the request of any
15 State, any department, agency, or subdivision of a
16 State, or any public agency organized pursuant to
17 State law, the Secretary of the Interior may nego-
18 tiate and enter into an agreement on behalf of the
19 United States for the design, study, and construc-
20 tion or expansion of any federally owned storage
21 project in accordance with this section.

22 (2) FEDERAL COST SHARE.—Subject to the re-
23 quirements of this subsection, the Secretary of the
24 Interior may participate in a federally owned storage
25 project in an amount equal to not more than 50 per-

1 cent of the total cost of the federally owned storage
2 project.

3 (3) COMMENCEMENT.—The construction of a
4 federally owned storage project that is the subject of
5 an agreement under this subsection shall not com-
6 mence until the Secretary of the Interior—

7 (A) determines that the proposed federally
8 owned storage project is feasible in accordance
9 with the reclamation laws;

10 (B) secures an agreement providing up-
11 front funding as is necessary to pay the non-
12 Federal share of the capital costs; and

13 (C) determines that, in return for the Fed-
14 eral cost-share investment in the federally
15 owned storage project, at least a proportionate
16 share of the project benefits are Federal bene-
17 fits, including water supplies dedicated to spe-
18 cific purposes such as environmental enhance-
19 ment and wildlife refuges.

20 (4) ENVIRONMENTAL LAWS.—In participating
21 in a federally owned storage project under this sub-
22 section, the Secretary of the Interior shall comply
23 with all applicable environmental laws, including the
24 National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.).

1 (b) STATE-LED STORAGE PROJECTS.—

2 (1) IN GENERAL.—Subject to the requirements
3 of this subsection, the Secretary of the Interior may
4 participate in a State-led storage project in an
5 amount equal to not more than 25 percent of the
6 total cost of the State-led storage project.

7 (2) REQUEST BY GOVERNOR.—Participation by
8 the Secretary of the Interior in a State-led storage
9 project under this subsection shall not occur un-
10 less—

11 (A) the participation has been requested by
12 the Governor of the State in which the State-
13 led storage project is located;

14 (B) the State or local sponsor determines,
15 and the Secretary of the Interior concurs,
16 that—

17 (i) the State-led storage project is
18 technically and financially feasible;

19 (ii) sufficient non-Federal funding is
20 available to complete the State-led storage
21 project; and

22 (iii) the State-led storage project
23 sponsors are financially solvent;

24 (C) the Secretary of the Interior deter-
25 mines that, in return for the Federal cost-share

1 investment in the State-led storage project, at
2 least a proportional share of the project benefits
3 are the Federal benefits, including water sup-
4 plies dedicated to specific purposes such as en-
5 vironmental enhancement and wildlife refuges;
6 and

7 (D) the Secretary of the Interior submits
8 to Congress a written notification of these de-
9 terminations.

10 (3) ENVIRONMENTAL LAWS.—When partici-
11 pating in a State-led storage project under this sub-
12 section, the Secretary shall comply with all applica-
13 ble environmental laws, including the National Envi-
14 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.).

16 (4) INFORMATION.—When participating in a
17 State-led storage project under this subsection, the
18 Secretary of the Interior—

19 (A) may rely on reports prepared by the
20 sponsor of the State-led storage project, includ-
21 ing feasibility (or equivalent) studies, environ-
22 mental analyses, and other pertinent reports
23 and analyses; but

1 (B) shall retain responsibility for making
2 the independent determinations described in
3 paragraph (2).

4 (c) AUTHORITY TO PROVIDE ASSISTANCE.—The Sec-
5 retary of the Interior may provide financial assistance
6 under this subtitle to carry out projects within any Rec-
7 lamation State, including—

- 8 (1) Arizona;
- 9 (2) California;
- 10 (3) Colorado;
- 11 (4) Idaho;
- 12 (5) Kansas;
- 13 (6) Montana;
- 14 (7) Nebraska;
- 15 (8) Nevada;
- 16 (9) New Mexico;
- 17 (10) North Dakota;
- 18 (11) Oklahoma;
- 19 (12) Oregon;
- 20 (13) South Dakota;
- 21 (14) Texas;
- 22 (15) Utah;
- 23 (16) Washington; and
- 24 (17) Wyoming.

1 (d) RIGHTS TO USE CAPACITY.—Subject to compli-
2 ance with State water rights laws, the right to use the
3 capacity of a federally owned storage project or State-led
4 storage project for which the Secretary of the Interior has
5 entered into an agreement under this subsection shall be
6 allocated in such manner as may be mutually agreed to
7 by the Secretary of the Interior and each other party to
8 the agreement.

9 (e) COMPLIANCE WITH CALIFORNIA WATER
10 BOND.—

11 (1) IN GENERAL.—The provision of Federal
12 funding for construction of a State-led storage
13 project in the State shall be subject to the condition
14 that the California Water Commission shall deter-
15 mine that the State-led storage project is consistent
16 with the California Water Quality, Supply, and In-
17 frastructure Improvement Act, approved by Cali-
18 fornia voters on November 4, 2014.

19 (2) APPLICABILITY.—This subsection expires
20 on the date on which State bond funds available
21 under the Act referred to in paragraph (1) are ex-
22 pended.

23 (f) PARTNERSHIP AND AGREEMENTS.—The Sec-
24 retary of the Interior, acting through the Commissioner,
25 may partner or enter into an agreement regarding the

1 water storage projects identified in section 103(d)(1) of
2 the Water Supply, Reliability, and Environmental Im-
3 provement Act (Public Law 108–361; 118 Stat. 1688)
4 with local joint powers authorities formed pursuant to
5 State law by irrigation districts and other local water dis-
6 tricts and local governments within the applicable hydro-
7 logic region, to advance those projects.

8 (g) CALFED AUTHORIZATION.—Title I of Public
9 Law 108–361 (the Calfed Bay-Delta Authorization Act)
10 (118 Stat. 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat.
11 2312) (as amended by section 207 of Public Law 114–
12 113) is amended by striking “2017” each place it appears
13 and inserting “2019”.

14 (h) AUTHORIZATION OF APPROPRIATIONS.—

15 (1) IN GENERAL.—There is authorized to be
16 appropriated to carry out this section \$600,000,000
17 to remain available until expended.

18 (2) ELIGIBILITY.—Only a federally owned stor-
19 age project or State-led storage project that has
20 been determined by the Secretary of the Interior to
21 meet the eligibility criteria described in subsections
22 (a) and (b) shall be eligible to receive funding under
23 this section.

24 (i) SUNSET.—This section shall apply only to feder-
25 ally owned storage projects and State-led storage projects

1 that the Secretary of the Interior determines to be feasible
2 before January 1, 2021.

3 (j) CONSISTENCY WITH STATE LAW.—Nothing in
4 this section preempts or modifies any obligation of the
5 United States to act in conformance with applicable State
6 law.

7 **SEC. 113. RESERVOIR OPERATION IMPROVEMENT.**

8 (a) REPORT.—Not later than 180 days after the date
9 of enactment of this Act, the Secretary of the Army shall
10 submit to the Committees on Appropriations and Environ-
11 ment and Public Works of the Senate and the Committees
12 on Appropriations and Transportation and Infrastructure
13 of the House of Representatives a report describing, with
14 respect to any State under a gubernatorial drought dec-
15 laration during water year 2015, the following:

16 (1) A list of Corps of Engineer projects and
17 non-Federal projects operated for flood control in
18 accordance with rules prescribed by the Secretary of
19 the Army pursuant to section 7 of the Act of De-
20 cember 22, 1944 (commonly known as the “Flood
21 Control Act of 1944”) (58 Stat. 890, chapter 665)).

22 (2) The year during which the original water
23 control manual was approved.

1 (3) The year during which any subsequent revi-
2 sions to the water control plan and manual of the
3 project are proposed to occur.

4 (4) A list of projects for which operational devi-
5 ations for drought contingency have been requested,
6 and the status of the request.

7 (5) The means by which water conservation and
8 water quality improvements were addressed.

9 (6) A list of projects for which permanent or
10 seasonal changes to storage allocations have been re-
11 quested, and the status of the request.

12 (b) PROJECT IDENTIFICATION.—Not later than 60
13 days after the date of completion of the report under sub-
14 section (a), the Secretary of the Army shall identify any
15 projects described in the report that meet the following
16 criteria:

17 (1) The project is located in a State in which
18 a drought emergency has been declared or was in ef-
19 fect during the 1-year period preceding the date of
20 final review by the Secretary.

21 (2) The water control manual and
22 hydrometeorological information establishing the
23 flood control rule curves of the project are consid-
24 ered out of date as a result of not being updated for
25 a period of 20 years.

1 (3) A non-Federal sponsor of a Corps of Engi-
2 neers project, or owner of a non-Federal project, as
3 applicable, has submitted to the Secretary a written
4 request to revise water operations manuals, includ-
5 ing flood control rule curves, based on the use of im-
6 proved weather forecasting or run-off forecasting
7 methods, new watershed data, changes to project op-
8 erations, or structural improvements.

9 (c) PILOT PROJECTS.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of identification of projects under sub-
12 section (b), if any, the Secretary of the Army shall
13 carry out not more than 15 pilot projects, including
14 not less than 6 non-Federal projects (within the
15 meaning of subsection (a)(1)), if any are identified
16 under subsection (b), to implement revisions of
17 water operations manuals, including flood control
18 rule curves, based on the best available science,
19 which may include—

20 (A) forecast-informed operations;

21 (B) new watershed data; and

22 (C) if applicable, in the case of non-Fed-
23 eral projects, structural improvements.

24 (2) CONSULTATION.—In implementing the pilot
25 projects pursuant to this subsection, the Secretary of

1 the Army shall consult with all affected interests, in-
2 cluding—

3 (A) non-Federal entities responsible for op-
4 erations and maintenance costs of a Corps of
5 Engineers facility;

6 (B) affected water rights holders;

7 (C) individuals and entities with storage
8 entitlements; and

9 (D) local agencies with flood control re-
10 sponsibilities downstream of a Corps of Engi-
11 neers facility.

12 (d) COORDINATION WITH NON-FEDERAL PROJECT
13 ENTITIES.—Before carrying out an activity under this
14 section, if a project identified under subsection (b) is—

15 (1) a non-Federal project, the Secretary of the
16 Army shall—

17 (A) consult with the non-Federal project
18 owner; and

19 (B) enter into a cooperative agreement,
20 memorandum of understanding, or other agree-
21 ment with the non-Federal project owner de-
22 scribing the scope and goals of the activity and
23 the coordination among the parties; or

24 (2) owned and operated by the Corps of Engi-
25 neers, the Secretary of the Army shall—

1 (A) consult with each non-Federal entity
2 (including a municipal water district, irrigation
3 district, joint powers authority, or other local
4 governmental entity) that currently—

5 (i) manages (in whole or in part) a
6 Corps of Engineers dam or reservoir; or

7 (ii) is responsible for operations and
8 maintenance costs; and

9 (B) enter into a cooperative agreement,
10 memorandum of understanding, or other agree-
11 ment with each the entity describing the scope
12 and goals of the activity and the coordination
13 among the parties.

14 (e) CONSIDERATION.—In designing and imple-
15 menting a forecast-informed reservoir operations plan, the
16 Secretary of the Army shall work closely with the National
17 Oceanic and Atmospheric Administration and may con-
18 sider—

19 (1) the relationship between ocean and atmos-
20 pheric conditions, including the El Nino and La
21 Nina cycles, and the potential for above-normal, nor-
22 mal, and below-normal rainfall for the coming water
23 year, including consideration of atmospheric river
24 forecasts;

1 (2) the precipitation and runoff index specific
2 to the basin and watershed of the relevant dam or
3 reservoir, including incorporating knowledge of
4 hydrological and meteorological conditions that influ-
5 ence the timing and quantity of runoff;

6 (3) improved hydrologic forecasting for precipi-
7 tation, snowpack, and soil moisture conditions;

8 (4) an adjustment of operational flood control
9 rule curves to optimize water supply storage and re-
10 liability, hydropower production, environmental bene-
11 fits for flows and temperature, and other authorized
12 project benefits, without a reduction in flood safety;
13 and

14 (5) proactive management in response to
15 changes in forecasts.

16 (f) FUNDING.—

17 (1) DEFINITION OF OPERATIONAL DOCU-
18 MENT.—In this subsection, the term “operational
19 document” means—

20 (A) a water control plan;

21 (B) a water control manual;

22 (C) a water control diagram;

23 (D) a release schedule;

24 (E) a rule curve;

1 (F) an operational agreement with a non-
2 Federal entity; and

3 (G) any environmental documentation as-
4 sociated with a document described in any of
5 subparagraphs (A) through (F).

6 (2) ACCEPTANCE AND USE.—The Secretary of
7 the Army may accept and expend amounts from
8 non-Federal entities to fund all or a portion of the
9 cost of carrying out a review or revision of oper-
10 ational documents for any reservoir that is either op-
11 erated or maintained by the Secretary, or for which
12 the Secretary is authorized to prescribe regulations
13 or otherwise advise or consult concerning the use of
14 storage allocated for flood risk management or navi-
15 gation.

16 (g) EFFECT OF MANUAL REVISIONS AND OTHER
17 PROVISIONS.—

18 (1) MANUAL REVISIONS.—In accordance with
19 all applicable laws, a revision of a manual shall not
20 interfere with—

21 (A) the authorized purposes of a Corps of
22 Engineers project; or

23 (B) the existing purposes of a non-Federal
24 project that is regulated for flood control by the
25 Secretary of the Army.

1 (2) EFFECT.—

2 (A) ACT.—Nothing in this Act authorizes
3 the Secretary of the Army to carry out, at a
4 Corps of Engineers or non-Federal dam or res-
5 ervoir, any project or activity for a purpose not
6 otherwise authorized as of the date of enact-
7 ment of this Act.

8 (B) SECTION.—Nothing in this section—

9 (i) affects or modifies any obligation
10 of the Secretary of the Army under State
11 law; or

12 (ii) authorizes the diversion or use of
13 water in a manner that is inconsistent with
14 State water rights law.

15 (3) BUREAU OF RECLAMATION PROJECTS EX-
16 CLUDED.—This section shall not apply to any dam
17 or reservoir owned by the Bureau of Reclamation.

18 (h) MODIFICATIONS TO MANUALS AND CURVES.—
19 Not later than 180 days after the date of completion of
20 a modification to an operations manual or flood control
21 rule curve, the Secretary of the Army shall submit to Con-
22 gress a report regarding the components of the forecast-
23 based reservoir operations plan incorporated into the
24 change.

1 **SEC. 114. FINDINGS.**

2 Congress finds that—

3 (1) the record drought conditions being experi-
4 enced in the State of California as of the date of en-
5 actment of this Act are—

6 (A) expected to recur in the future; and

7 (B) likely to do so with increasing fre-
8 quency;

9 (2) water storage is an indispensable and inte-
10 gral part of any solution to address the long-term
11 water challenges of the State of California;

12 (3) Congress has authorized relevant feasibility
13 studies for 5 water storage projects in the State of
14 California, including projects for—

15 (A) enlargement of Shasta Dam in Shasta
16 County under section 2(a) of Public Law 96-
17 375 (94 Stat. 1506), as reaffirmed under sec-
18 tion 103(d)(1)(A)(i)(I) of Public Law 108-361
19 (118 Stat. 1684);

20 (B) enlargement of Los Vaqueros Res-
21 ervoir in Contra Costa County under section
22 215 of Public Law 108-7 (117 Stat. 147), as
23 reaffirmed under section 103(d)(1)(A)(i)(II) of
24 Public Law 108-361 (118 Stat. 1684);

25 (C) construction of North-of-Delta
26 Offstream Storage (Sites Reservoir) in Colusa

1 County under section 215 of Public Law 108–
2 7 (117 Stat. 147), as reaffirmed under section
3 103(d)(1)(A)(ii)(I) of Public Law 108–361
4 (118 Stat. 1684);

5 (D) construction of the Upper San Joaquin
6 River storage (Temperance Flat) in Fresno and
7 Madera Counties under section 215 of Public
8 Law 108–7 (117 Stat. 147), as reaffirmed
9 under section 103(d)(1)(A)(ii)(II) of Public
10 Law 108–361 (118 Stat. 1684); and

11 (E) expansion of San Luis Reservoir under
12 section 103(f)(1)(A) of Public Law 108–361
13 (118 Stat. 1694);

14 (4) as of the date of enactment of this Act,
15 more than 10 years have elapsed since the author-
16 ization of the feasibility studies referred to in para-
17 graph (3), but for a variety of reasons the slow pace
18 of work on completion of the feasibility studies for
19 those 5 water storage projects is unjustified and of
20 deep concern; and

21 (5) there is significant public interest in, and
22 urgency with respect to, completing all feasibility
23 studies and environmental reviews for the water
24 storage projects referred to in paragraph (3), given
25 the critical need for that infrastructure to address

1 current and future water challenges of the State of
2 California.

3 **SEC. 115. STUDIES.**

4 The Secretary of the Interior, through the Commis-
5 sioner, shall—

6 (1) complete the Upper San Joaquin River
7 (Temperance Flat) feasibility study described in
8 clause (ii)(II) of section 103(d)(1)(A) of Public Law
9 108–361 (118 Stat. 1684) and submit the study to
10 the appropriate committees of the House of Rep-
11 resentatives and the Senate not later than March
12 31, 2016;

13 (2) complete the Los Vaqueros Reservoir feasi-
14 bility study described in clause (i)(II) of section
15 103(d)(1)(A) of Public Law 108–361 (118 Stat.
16 1684) and submit the study to the appropriate com-
17 mittees of the House of Representatives and the
18 Senate not later than November 30, 2016;

19 (3) complete the North-of-Delta Offstream
20 Storage (Sites Reservoir) feasibility study described
21 in clause (ii)(I) of section 103(d)(1)(A) of Public
22 Law 108–361 (118 Stat. 1684) and submit the
23 study to the appropriate committees of the House of
24 Representatives and the Senate not later than No-
25 vember 30, 2017;

1 (4) complete the San Luis Reservoir feasibility
2 study described in section 103(f)(1)(A) of Public
3 Law 108–361 (118 Stat. 1694) and submit the
4 study to the appropriate Committees of the House
5 of Representatives and the Senate not later than De-
6 cember 31, 2017;

7 (5) provide a progress report on the status of
8 the feasibility studies referred to in paragraphs (1)
9 through (3) to the appropriate committees of the
10 House of Representatives and the Senate not later
11 than 90 days after the date of enactment of this Act
12 and every 180 days thereafter until December 31,
13 2017, as applicable, which report shall include
14 timelines for study completion, draft environmental
15 impact statements, final environmental impact state-
16 ments, and records of decision;

17 (6) document, delineate, and publish costs di-
18 rectly relating to the engineering and construction of
19 a water storage project separately from the costs re-
20 sulting from regulatory compliance or the construc-
21 tion of auxiliary facilities necessary to achieve regu-
22 latory compliance if the Secretary of the Interior de-
23 termines in any feasibility study required under this
24 subsection, reclamation laws, the Central Valley
25 Project Improvement Act (Public Law 102–575; 106

1 Stat. 4706), the Fish and Wildlife Coordination Act
2 (16 U.S.C. 661 et seq.), the Endangered Species Act
3 of 1973 (16 U.S.C. 1531 et seq.), and other applica-
4 ble law, that the project is not feasible;

5 (7) include information required in paragraph
6 (7) in the feasibility studies issued pursuant para-
7 graphs (1) through (5), as applicable; and

8 (8) communicate, coordinate, and cooperate
9 with public water agencies that—

10 (A) contract with the United States for
11 Central Valley Project water; and

12 (B) are expected to participate in the cost
13 pools that will be created for the projects pro-
14 posed in the feasibility studies under this sec-
15 tion.

16 **SEC. 116. LOSSES CAUSED BY CONSTRUCTION AND OPER-**
17 **ATION OF WATER STORAGE PROJECTS.**

18 The Secretary of the Interior, in consultation with
19 other appropriate agencies, shall establish a process to ad-
20 dress direct and substantial impacts caused by any storage
21 projects identified under section 115.

1 **Subtitle C—Desalination, Water**
2 **Reuse and Recycling, and Con-**
3 **servation**

4 **SEC. 121. WATER RECYCLING AND DESALINATION**
5 **PROJECTS.**

6 (a) FINDINGS.—Congress finds that—

7 (1) Federal funding to support water recycling
8 and desalination projects in recent years has been
9 insufficient to address water supply needs in many
10 regions across the United States;

11 (2) climate variability and drought resiliency re-
12 quire additional water supply projects to cope with
13 higher probabilities of longer, more intense droughts;

14 (3) the historic drought in the State of Cali-
15 fornia highlights the necessity of long-term projects
16 to address a changing climate;

17 (4) the California Water Plan and surveys con-
18 ducted by the National Association of Clean Water
19 Agencies, the Water Reuse Association, the Associa-
20 tion of California Water Agencies, the Western Re-
21 cycled Water Coalition, and the California Associa-
22 tion of Sanitation Agencies led to the identification
23 of 137 water recycling and desalination projects ca-
24 pable of producing 1,412,799 acre-feet of new water

1 supplies if sufficient funding or financing tools ex-
2 isted to facilitate development of the projects;

3 (5) there exists a Federal interest in the
4 projects referred to in paragraph (4) to the extent
5 that the projects can—

6 (A) diversify water supplies;

7 (B) reduce conflicts hindering existing
8 Federal reclamation efforts on the Colorado
9 River and around the Delta; and

10 (C) advance technologies which reduce the
11 cost and improve the efficiency of water desali-
12 nation projects; and

13 (6) this Act will enable Federal support for de-
14 salination projects, including the projects referred to
15 in paragraph (4) and others by providing Federal
16 cost-share grants, through the Water Desalination
17 Act of 1996 (42 U.S.C. 10301 note; Public Law
18 104–298), the Reclamation Wastewater and Ground-
19 water Study and Facilities Act (43 U.S.C. 390h et
20 seq.), and the WaterSMART program of the Depart-
21 ment of the Interior, and by making low-cost loans
22 or loan guarantees available under subtitle D.

23 (b) WATER RECYCLING PROJECTS.—On submission
24 of a completed feasibility report in accordance with Bu-
25 reau of Reclamation standards, the Secretary of the Inte-

rior shall review requests for water recycling project funding assistance and, subject to the availability of appropriations, award funding, on a competitive basis, for projects that meet the eligibility requirements of this title, subject to the condition that the Secretary shall include among the projects reviewed water recycling projects sponsored by any of the following:

- 8 (1) Bear Valley Community Services District.
- 9 (2) Beaumont Cherry Valley Water District.
- 10 (3) Burbank Water and Power.
- 11 (4) Cambria Community Services District.
- 12 (5) Central Contra Costa Sanitary District.
- 13 (6) City of American Canyon.
- 14 (7) City of Benicia.
- 15 (8) City of Brentwood.
- 16 (9) City of Camarillo.
- 17 (10) City of Carlsbad (Municipal Water Dis-
- 18 trict).
- 19 (11) City of Corona Department of Water and
- 20 Power.
- 21 (12) City of Daly City.
- 22 (13) City of Del Mar.
- 23 (14) City of Escondido.
- 24 (15) City of Fresno.
- 25 (16) City of Hayward.

- 1 (17) City of Los Angeles (Bureau of Sanitation
- 2 and Department of Water and Power).
- 3 (18) City of Modesto.
- 4 (19) City of Morro Bay.
- 5 (20) City of Mountain View.
- 6 (21) City of Oceanside.
- 7 (22) City of Palo Alto.
- 8 (23) City of Paso Robles.
- 9 (24) City of Pismo Beach.
- 10 (25) City of Pleasanton.
- 11 (26) City of Poway.
- 12 (27) City of Redwood City.
- 13 (28) City of Riverside.
- 14 (29) City of Roseville.
- 15 (30) City of Sacramento.
- 16 (31) City of San Bernardino.
- 17 (32) City of San Diego.
- 18 (33) City of San Luis Obispo.
- 19 (34) City of Santa Barbara.
- 20 (35) City of Santa Rosa.
- 21 (36) City of Shasta Lake.
- 22 (37) City of Sunnyvale.
- 23 (38) City of Turlock.
- 24 (39) City of Vacaville.
- 25 (40) City of Ventura.

- 1 (41) City of Visalia.
- 2 (42) Clear Creek Community Services District.
- 3 (43) Coachella Valley Water District.
- 4 (44) Cucamonga Valley Water District.
- 5 (45) Delta Diablo Sanitation District.
- 6 (46) Desert Water Agency.
- 7 (47) Dublin San Ramon Services District.
- 8 (48) East Bay Municipal Utility District.
- 9 (49) East Valley Water District.
- 10 (50) Eastern Municipal Water District.
- 11 (51) El Dorado Irrigation District.
- 12 (52) Fallbrook Public Utility District.
- 13 (53) Goleta Water District.
- 14 (54) Helendale Community Services District.
- 15 (55) Hi-Desert Water District.
- 16 (56) Idyllwild Water District.
- 17 (57) Inland Empire Utilities Agency.
- 18 (58) Ironhouse Sanitary District.
- 19 (59) Irvine Ranch Water District.
- 20 (60) Las Virgenes Municipal Water District.
- 21 (61) Leucadia Wastewater District.
- 22 (62) Long Beach Water Department.
- 23 (63) Los Carneros Water District.
- 24 (64) Marin Municipal Water District.

- 1 (65) Metropolitan Water District/Los Angeles
- 2 Sanitation District.
- 3 (66) Monterey Regional Water Pollution Con-
- 4 trol Agency.
- 5 (67) Napa County Department of Public
- 6 Works.
- 7 (68) North Bay Water Reuse Authority.
- 8 (69) North Marin Water District.
- 9 (70) Novato Sanitary District.
- 10 (71) Olivenhain Municipal Water District.
- 11 (72) Orange County Sanitation District.
- 12 (73) Orange County Water District.
- 13 (74) Otay Water District.
- 14 (75) Padre Dam Municipal Water District.
- 15 (76) Pajaro Valley Water Management Agency.
- 16 (77) Paradise Irrigation District.
- 17 (78) Pebble Beach Community Services Dis-
- 18 trict.
- 19 (79) Rainbow Municipal Water District.
- 20 (80) Ramona Municipal Water District.
- 21 (81) Rancho California Water District.
- 22 (82) Rincon Del Diablo Municipal Water Dis-
- 23 trict.
- 24 (83) Sacramento Regional County Sanitation
- 25 District.

- 1 (84) San Bernardino County Special Districts.
- 2 (85) San Francisco Public Utilities Commis-
- 3 sion.
- 4 (86) San Jose Water Company.
- 5 (87) San Luis Obispo County.
- 6 (88) Santa Clara Valley Water District.
- 7 (89) Santa Clarita Valley Sanitation District.
- 8 (90) Santa Fe Irrigation District.
- 9 (91) Santa Margarita Water District.
- 10 (92) Sausalito-Marin City Sanitary District.
- 11 (93) Sonoma County Water Agency.
- 12 (94) South Orange County Wastewater Author-
- 13 ity.
- 14 (95) South Tahoe Public Utility District.
- 15 (96) Sunnyslope County Water District.
- 16 (97) Town of Yountville.
- 17 (98) Tuolumne Utilities District.
- 18 (99) Upper San Gabriel Valley Municipal Water
- 19 District.
- 20 (100) Valley Center Municipal Water District.
- 21 (101) Valley Sanitary District.
- 22 (102) Ventura County Waterworks District No.
- 23 8.
- 24 (103) Victor Valley Wastewater Reclamation
- 25 Authority.

1 (104) Water Replenishment District of South-
2 ern California.

3 (105) West Basin Municipal Water District.

4 (106) West Bay Sanitary District.

5 (107) West County Wastewater District.

6 (108) Western Municipal Water District of Riv-
7 erside County.

8 (109) Western Riverside County Regional
9 Wastewater Authority.

10 (110) Yucaipa Valley Water District.

11 (c) FEDERAL SUPPORT FOR WATER RECYCLING
12 PROJECTS.—Water recycling and reuse projects described
13 in subsection (b) may compete for funding authorized
14 under the following sections of this title if the projects
15 meet applicable eligibility requirements, subject to the con-
16 dition that no particular project receive Federal grant
17 funding from more than one Federal grant program:

18 (1) Section 101, which amends section 9504
19 (WaterSMART) of the Omnibus Public Land Man-
20 agement Act of 2009 (42 U.S.C. 10364) and author-
21 izes \$200,000,000 in additional Federal assistance
22 for water storage and conveyance facilities, inte-
23 grated regional water management, reclamation and
24 recycling projects, and groundwater recharge.

1 (2) Section 123, which amends the Reclamation
2 Wastewater and Groundwater Study and Facilities
3 Act (43 U.S.C. 390h) and authorizes \$150,000,000
4 in Federal assistance for water recycling and reuse
5 projects.

6 (3) Subtitle D, which authorizes the Secretary
7 of the Interior to provide Federal assistance to fi-
8 nance the development of critical water resource in-
9 frastructure through loans and loan guarantees to
10 qualified applicants.

11 (d) FEDERAL SUPPORT FOR DESALINATION
12 PROJECTS.—

13 (1) ELIGIBILITY.—On submission of a com-
14 pleted feasibility report in accordance with Bureau
15 of Reclamation standards, the Secretary of the Inte-
16 rior shall review requests for water desalination
17 funding assistance and, subject to the availability of
18 appropriations, award funding on a competitive basis
19 for projects that meet the eligibility requirements of
20 this title, subject to the condition that the Secretary
21 shall include among the projects reviewed the fol-
22 lowing desalination projects referred to in the 2013
23 California Water Plan or in an integrated regional
24 water management plan accepted by the State of
25 California:

- 1 (A) Cambria Desalination Project.
- 2 (B) Camp Pendleton Seawater Desalina-
3 tion Project.
- 4 (C) Chino Basin Desalter 3.
- 5 (D) Doheny Ocean Desalination Project.
- 6 (E) GREAT Program Groundwater Desali-
7 nation Facility Expansion.
- 8 (F) Huntington Beach Seawater Desalina-
9 tion Project.
- 10 (G) Irvine Non-Potable Shallow Ground-
11 water Unit Desalter.
- 12 (H) Irvine Ranch Water District Wells 51,
13 52, 53, 21, and 22 Potable (Non-exempt)
14 Desalter Plant.
- 15 (I) Long Beach Seawater Desalination
16 Project.
- 17 (J) Marina Desalination Facility Expan-
18 sion.
- 19 (K) Mission Valley Brackish Groundwater
20 Recovery Project.
- 21 (L) Monterey Bay Regional Water Project
22 Desalination Facility (Moss Landing).
- 23 (M) Monterey Peninsula Water Supply
24 Project.

- 1 (N) Monterey Peninsula Water Supply
2 Project (Ocean Desalination/Groundwater Re-
3 plenishment).
- 4 (O) Moorpark Groundwater Desalter.
- 5 (P) North Pleasant Valley Groundwater
6 Desalter.
- 7 (Q) Oceanside Ocean Desalination Project
8 (San Luis Rey Basin).
- 9 (R) Perris II Desalter.
- 10 (S) Ramona Desalting Facility.
- 11 (T) San Diego Formation/Balboa Park
12 Groundwater Desalination Facility.
- 13 (U) San Elijo Valley Groundwater Project.
- 14 (V) Bay Area Regional Desalination
15 Project.
- 16 (W) San Pasqual Brackish Groundwater
17 Recovery Project.
- 18 (X) Santa Cruz/Soquel Creek Water Dis-
19 trict Desalination Plant.
- 20 (Y) South Orange Coastal Ocean Desalina-
21 tion Project.
- 22 (Z) West Basin Seawater Desalination Re-
23 gional Project.
- 24 (AA) West Simi Valley Desalter.

1 (2) FUNDING.—Desalination projects described
2 in subsection (1) may compete for funding author-
3 ized under the following sections of this Title if the
4 projects meet applicable eligibility requirements, sub-
5 ject to the condition that no particular project re-
6 ceive Federal grant funding from more than one
7 Federal program:

8 (A) Section 101, which amends section
9 9504 (WaterSMART) of the Omnibus Public
10 Land Management Act of 2009 (42 U.S.C.
11 10364) and authorizes \$200,000,000 in addi-
12 tional Federal assistance for water storage and
13 conveyance facilities, integrated regional water
14 management, reclamation and recycling
15 projects, and groundwater recharge.

16 (B) Section 122, which reauthorizes the
17 Water Desalination Act of 1996 (42 U.S.C.
18 10301; Public Law 104-298) as amended, and
19 authorizes \$100,000,000 in Federal assistance
20 for desalination research, demonstration
21 projects, and desalination project feasibility and
22 design.

23 (C) Section 123, which amends the Rec-
24 lamation Wastewater and Groundwater Study
25 and Facilities Act (43 U.S.C. 390h) and au-

1 thorizes \$150,000,000 in Federal assistance for
2 water recycling and reuse projects.

3 (D) Subtitle D, which authorizes the Sec-
4 retary of the Interior to provide Federal assist-
5 ance to finance the development of critical
6 water resource infrastructure through loans and
7 loan guarantees to qualified applicants.

8 **SEC. 122. REAUTHORIZATION OF WATER DESALINATION**
9 **ACT.**

10 (a) AUTHORIZATION OF RESEARCH AND STUDIES.—

11 (1) IN GENERAL.—Section 3 of the Water De-
12 salination Act of 1996 (42 U.S.C. 10301 note; Pub-
13 lic Law 104–298) is amended by adding at the end
14 the following:

15 “(e) PRIORITIZATION.—In carrying out this section,
16 the Secretary of the Interior shall prioritize funding for
17 research—

18 “(1) to reduce energy consumption and lower
19 the cost of seawater and brackish water desalination;

20 “(2) to reduce the environmental impacts of
21 seawater desalination, including subsurface intakes
22 and other technological improvements, and develop
23 technology and strategies to mitigate those impacts;

24 “(3) to improve existing reverse osmosis and
25 membrane technology;

1 “(4) to carry out basic and applied research on
2 next generation desalination technologies, including
3 graphene membranes, forward osmosis, hybrid mem-
4 brane-thermal desalination, improved energy recov-
5 ery systems, and renewable energy-powered desalina-
6 tion systems that could significantly reduce desalina-
7 tion costs;

8 “(5) to develop portable or modular desalina-
9 tion units capable of providing temporary emergency
10 water supplies for domestic or military deployment
11 purposes; and

12 “(6) to encourage development of desalination
13 siting plans, including maps of preferred and pri-
14 ority locations, by States that consider local and re-
15 gional water supply needs and sources, potential im-
16 pacts on coastal and ocean resources and fisheries,
17 the effects of sea level rise and other factors that af-
18 fect project siting.”.

19 (b) DESALINATION DEMONSTRATION AND DEVELOP-
20 MENT.—Section 4 of the Water Desalination Act of 1996
21 (42 U.S.C. 10301 note; Public Law 104–298) is amend-
22 ed—

23 (1) in subsection (a)—

24 (A) by redesignating paragraphs (2) and

25 (3) as paragraphs (3) and (4), respectively; and

1 (B) by inserting after paragraph (1) the
2 following:

3 “(2) FEASIBILITY AND DESIGN.—Award grants
4 and enter into contracts with non-Federal project
5 sponsors to provide financial assistance to study the
6 feasibility and support the design of desalination fa-
7 cilities (including associated water distribution infra-
8 structure) that provide usable water.”; and

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

10 “(c) PRIORITIZATION.—In carrying out demonstra-
11 tion and development activities under subsection (a), the
12 Secretary of the Interior shall prioritize projects—

13 “(1) in drought-stricken States and commu-
14 nities;

15 “(2) in States for which funding has been au-
16 thorized for desalination demonstration and develop-
17 ment projects; and

18 “(3) that can reduce reliance on imported water
19 supplies that have an impact on species listed under
20 the Endangered Species Act of 1973 (16 U.S.C.
21 1531 et seq.).

22 “(d) CRITERIA FOR ELIGIBILITY.—In carrying out
23 this section, the Secretary of the Interior shall establish
24 criteria to determine projects eligible for grant funding

1 based on the ability of the projects to provide regional
2 water supply benefits, including—

3 “(1) improving water supply reliability in re-
4 gions subject to frequent and severe drought;

5 “(2) enhancement of public health, safety, eco-
6 systems, and watershed sustainability;

7 “(3) preservation of groundwater through re-
8 duction of withdrawals from aquifers;

9 “(4) offsetting demand for water conveyed from
10 environmentally sensitive areas outside service area
11 of the project; and

12 “(5) mitigation of saltwater intrusion to
13 aquifers.”.

14 (c) COST SHARING.—Section 7 of the Water Desali-
15 nation Act of 1996 (42 U.S.C. 10301 note; Public Law
16 104–298) is amended—

17 (1) in the first sentence, by striking “The Fed-
18 eral share” and inserting the following:

19 “(a) MAXIMUM.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2) and subsection (b) and limited to the 5
22 years following the date of enactment of the Cali-
23 fornia Emergency Drought Relief Act, the Federal
24 share”;

1 (2) in the second sentence, by striking “A Fed-
2 eral” and inserting the following:

3 “(b) FEASIBILITY DETERMINATION.—A Federal”;

4 (3) in the third sentence, by striking “The Sec-
5 retary” and inserting the following:

6 “(c) PROCEDURES.—The Secretary”;

7 (4) in the fourth sentence, by striking “Costs”
8 and inserting the following:

9 “(d) OPERATION, MAINTENANCE, REPAIR, AND RE-
10 HABILITATION.—The costs”; and

11 (5) in subsection (a) (as designated by para-
12 graph (1)), by adding at the end the following:

13 “(2) EXCEPTION.—The Federal share of the
14 cost of project design under section 4 shall not ex-
15 ceed 25 percent of the total cost of the project de-
16 sign.”.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—In order
18 to advance water desalination research and project devel-
19 opment, Section 8 of the Water Desalination Act of 1996
20 (42 U.S.C. 10301 note; Public Law 104–298) is amend-
21 ed—

22 (1) in subsection (a), in the first sentence—

23 (A) by striking “\$5,000,000” and inserting
24 “\$10,000,000”; and

1 (B) by striking “2013” and inserting
2 “2020”; and

3 (2) in subsection (b), by striking “\$3,000,000
4 for each of fiscal years 2012 through 2013” and in-
5 serting “\$50,000,000 for the period of fiscal years
6 2016 through 2020”.

7 (e) CONSULTATION.—Section 9 of the Water Desali-
8 nation Act of 1996 (42 U.S.C. 10301 note; Public Law
9 104–298) is amended—

10 (1) by striking the section designation and
11 heading and all that follows through “In carrying
12 out the provisions of” in the first sentence and in-
13 serting the following:

14 **“SEC. 9. CONSULTATION AND COORDINATION.**

15 “(a) CONSULTATION.—In carrying out”;

16 (2) in the second sentence, by striking “The au-
17 thorization” and inserting the following:

18 “(b) OTHER DESALINATION PROGRAMS.—The au-
19 thorization”; and

20 (3) by inserting after subsection (b) (as so des-
21 ignated) the following:

22 “(c) COORDINATION OF FEDERAL DESALINATION
23 RESEARCH AND DEVELOPMENT.—For the effective period
24 of the California Emergency Drought Relief Act, the

1 White House Office of Science and Technology Policy shall
2 develop a coordinated strategic plan that—

3 “(1) establishes priorities for future Federal in-
4 vestments in desalination; and

5 “(2) coordinates the activities of Federal agen-
6 cies involved in desalination, including the Bureau of
7 Reclamation, the National Science Foundation, the
8 Office of Naval Research of the Department of De-
9 fense, the National Laboratories of the Department
10 of Energy, the United States Geological Survey, the
11 Environmental Protection Agency, and the National
12 Oceanic and Atmospheric Administration.”.

13 **SEC. 123. NEW WATER RECYCLING AND REUSE PROJECTS.**

14 Section 1602 of the Reclamation Wastewater and
15 Groundwater Study and Facilities Act (43 U.S.C. 390h)
16 is amended by adding at the end the following:

17 “(e) **AUTHORIZATION OF NEW WATER RECYCLING**
18 **AND REUSE PROJECTS.—**

19 “(1) **IN GENERAL.—**A non-Federal interest may
20 submit to the Secretary of the Interior proposals for
21 eligible projects in the form of completed feasibility
22 studies.

23 “(2) **AUTHORITY TO PROVIDE ASSISTANCE.—**
24 The Secretary of the Interior may provide financial

1 assistance under this subtitle to carry out projects
2 within—

3 “(A) any Reclamation State, including—

4 “(i) Arizona;

5 “(ii) California;

6 “(iii) Colorado;

7 “(iv) Idaho;

8 “(v) Kansas;

9 “(vi) Montana;

10 “(vii) Nebraska;

11 “(viii) Nevada;

12 “(ix) New Mexico;

13 “(x) North Dakota;

14 “(xi) Oklahoma;

15 “(xii) Oregon;

16 “(xiii) South Dakota;

17 “(xiv) Texas;

18 “(xv) Utah;

19 “(xvi) Washington; and

20 “(xvii) Wyoming; and

21 “(B) the States of Alaska and Hawaii.

22 “(3) ELIGIBLE PROJECTS.—A project shall be
23 considered to be eligible for consideration under this
24 subsection if the project reclaims and reuses—

1 “(A) municipal, industrial, domestic, or ag-
2 ricultural wastewater; or

3 “(B) impaired groundwater or surface
4 water.

5 “(4) GUIDELINES.—

6 “(A) IN GENERAL.—Not later than 90
7 days after the date of enactment of this sub-
8 section, the Secretary of the Interior shall issue
9 water recycling project solicitation and evalua-
10 tion guidelines that include the criteria de-
11 scribed in subsection (f)(3).

12 “(B) REVIEW.—In accordance with the
13 priorities and criteria described in subsection
14 (f), the Secretary of the Interior shall review
15 each feasibility study received under paragraph
16 (1) to determine whether the study, and the
17 process under which the study was developed,
18 comply with Federal laws (including regula-
19 tions) applicable to feasibility studies of water
20 recycling and reuse projects.

21 “(f) COMPETITIVE GRANT FUNDING OF WATER RE-
22 CYCLING AND REUSE PROJECTS.—

23 “(1) IN GENERAL.—The Secretary of the Inte-
24 rior shall administer a competitive grant program
25 under which the non-Federal project sponsor of any

1 project determined by the Secretary of the Interior
2 to be feasible under subsection (e)(2) shall be eligi-
3 ble to apply for funding for the planning, design,
4 and construction of the project.

5 “(2) AUTHORIZATION OF APPROPRIATIONS.—
6 There is authorized to be appropriated to the Sec-
7 retary of the Interior to carry out this subsection
8 \$200,000,000, to remain available until expended.”.

9 **SEC. 124. PROMOTING WATER EFFICIENCY WITH**
10 **WATERSENSE.**

11 (a) AUTHORIZATION.—The Administrator of the En-
12 vironmental Protection Agency (referred to in this section
13 as the “Administrator”) is authorized to continue to carry
14 out the voluntary program, known as the “WaterSense
15 Program”, to identify and promote water efficient prod-
16 ucts, buildings, landscapes, facilities, processes, and serv-
17 ices so as—

18 (1) to reduce water use;

19 (2) to reduce the strain on water, wastewater,
20 and stormwater infrastructure;

21 (3) to conserve energy used to pump, heat,
22 transport, and treat water; and

23 (4) to preserve water resources for future gen-
24 erations, through voluntary labeling of, or other
25 forms of communications regarding, products, build-

1 ings, landscapes, facilities, processes, and services
2 that meet the highest water efficiency and perform-
3 ance criteria.

4 (b) REVIEW.—Not less frequently than once every 4
5 years, the Administrator shall regularly review and, if ap-
6 propriate, update WaterSense criteria that have been
7 adopted for the voluntary labeling of categories of prod-
8 ucts, buildings, landscapes, facilities, processes, and serv-
9 ices.

10 (c) TRANSPARENCY.—The Administrator shall, to the
11 maximum extent practicable, regularly estimate and make
12 available to the public the production and relative market
13 shares of, and the savings of water, energy, and capital
14 costs of water, wastewater, and stormwater infrastructure
15 attributable to the use of WaterSense-labeled products,
16 buildings, landscapes, facilities, processes, and services, at
17 least annually.

18 (d) PUBLIC COMMENT.—Prior to establishing or re-
19 vising a WaterSense category, specification, installation
20 criterion, or other criterion, the Administrator shall—

21 (1) solicit comments from interested parties and
22 the public; and

23 (2) provide reasonable notice to interested par-
24 ties and the public of any changes (including effec-
25 tive dates), on the adoption of a new or revised cat-

1 category, specification, installation criterion, or other
2 criterion.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out the WaterSense
5 program of the Environmental Protection Agency
6 \$2,500,000 for each of fiscal years 2016 through 2019.

7 **Subtitle D—Reclamation Infra-**
8 **structure Finance and Innova-**
9 **tion**

10 **SEC. 131. PURPOSES.**

11 The purposes of this subtitle are—

12 (1) to promote increased development of critical
13 water resources infrastructure by establishing addi-
14 tional opportunities for financing water resources
15 projects;

16 (2) to attract new investment capital to infra-
17 structure projects that are capable of generating rev-
18 enue streams through user fees or other dedicated
19 funding sources;

20 (3) to complement existing Federal funding
21 sources and address budgetary constraints on Bu-
22 reau of Reclamation programs; and

23 (4) to leverage private investment in water re-
24 sources infrastructure.

1 **SEC. 132. DEFINITIONS.**

2 In this subtitle:

3 (1) **ELIGIBLE ENTITY.**—The term “eligible enti-
4 ty” means—

5 (A) a corporation;

6 (B) a partnership;

7 (C) a joint venture;

8 (D) a trust;

9 (E) a State, or local governmental entity,
10 agency, or instrumentality; and

11 (F) a conservancy district, irrigation dis-
12 trict, canal company, mutual water company,
13 water users’ association, Indian tribe, agency
14 created by interstate compact, or any other en-
15 tity that has the capacity to contract with the
16 United States under the reclamation laws.

17 (2) **FEDERAL CREDIT INSTRUMENT.**—The term
18 “Federal credit instrument” means a secured loan
19 or loan guarantee authorized to be made available
20 under this title with respect to a project.

21 (3) **INVESTMENT-GRADE RATING.**—The term
22 “investment-grade rating” means a rating of BBB
23 minus, Baa3, bbb minus, BBB (low), or higher as
24 assigned by a rating agency to project obligations.

25 (4) **LENDER.**—

1 (A) IN GENERAL.—The term “lender”
2 means any non-Federal qualified institutional
3 buyer (as defined in section 230.144A(a) of
4 title 17, Code of Federal Regulations (or a suc-
5 cessor regulation) (commonly known as “Rule
6 144A(a) of the Securities and Exchange Com-
7 mission” and issued under the Securities Act of
8 1933 (15 U.S.C. 77a et seq.))).

9 (B) INCLUSIONS.—The term “lender” in-
10 cludes—

11 (i) a qualified retirement plan (as de-
12 fined in section 4974 of the Internal Rev-
13 enue Code of 1986) that is a qualified in-
14 stitutional buyer; and

15 (ii) a governmental plan (as defined in
16 section 414 of the Internal Revenue Code
17 of 1986) that is a qualified institutional
18 buyer.

19 (5) LOAN GUARANTEE.—The term “loan guar-
20 antee” means any guarantee or other pledge by the
21 Secretary of the Interior to pay all or part of the
22 principal of, and interest on, a loan or other debt ob-
23 ligation issued by an obligor and funded by a lender.

24 (6) OBLIGOR.—The term “obligor” means an
25 eligible entity that is primarily liable for payment of

1 the principal of, or interest on, a Federal credit in-
2 strument.

3 (7) PROJECT OBLIGATION.—

4 (A) IN GENERAL.—The term “project obli-
5 gation” means any note, bond, debenture, or
6 other debt obligation issued by an obligor in
7 connection with the financing of a project.

8 (B) EXCLUSION.—The term “project obli-
9 gation” does not include a Federal credit in-
10 strument.

11 (8) RATING AGENCY.—The term “rating agen-
12 cy” means a credit rating agency registered with the
13 Securities and Exchange Commission as a nationally
14 recognized statistical rating organization (as defined
15 in section 3(a) of the Securities Exchange Act of
16 1934 (15 U.S.C. 78c(a)).

17 (9) RECLAMATION STATE.—The term “Rec-
18 lamation State” means any of the States of—

19 (A) Arizona;

20 (B) California;

21 (C) Colorado;

22 (D) Idaho;

23 (E) Kansas;

24 (F) Montana;

25 (G) Nebraska;

- 1 (H) Nevada;
2 (I) New Mexico;
3 (J) North Dakota;
4 (K) Oklahoma;
5 (L) Oregon;
6 (M) South Dakota;
7 (N) Texas;
8 (O) Utah;
9 (P) Washington; and
10 (Q) Wyoming.

11 (10) SECURED LOAN.—The term “secured
12 loan” means a direct loan or other debt obligation
13 issued by an obligor and funded by the Secretary in
14 connection with the financing of a project under sub-
15 title A.

16 (11) SUBSIDY AMOUNT.—The term “subsidy
17 amount” means the amount of budget authority suf-
18 ficient to cover the estimated long-term cost to the
19 Federal Government of a Federal credit instrument,
20 as calculated on a net present value basis, excluding
21 administrative costs and any incidental effects on
22 Governmental receipts or outlays in accordance with
23 the Federal Credit Reform Act of 1990 (2 U.S.C.
24 661 et seq.).

1 (12) SUBSTANTIAL COMPLETION.—The term
2 “substantial completion”, with respect to a project,
3 means the earliest date on which a project is consid-
4 ered to perform the functions for which the project
5 is designed.

6 **SEC. 133. AUTHORITY TO PROVIDE ASSISTANCE.**

7 The Secretary of the Interior may provide financial
8 assistance under this subtitle to carry out projects with-
9 in—

- 10 (1) any Reclamation State;
11 (2) any other State in which the Bureau of
12 Reclamation is authorized to provide project assist-
13 ance; and
14 (3) the States of Alaska and Hawaii.

15 **SEC. 134. APPLICATIONS.**

16 To be eligible to receive assistance under this subtitle,
17 an eligible entity shall submit to the Secretary of the Inte-
18 rior an application at such time, in such manner, and con-
19 taining such information as the Secretary of the Interior
20 may require.

21 **SEC. 135. ELIGIBILITY FOR ASSISTANCE.**

22 (a) ELIGIBLE PROJECTS.—The following non-feder-
23 ally owned projects that contribute to a safe, adequate
24 water supply for domestic, agricultural, environmental, or

1 municipal and industrial use may be carried out using as-
2 sistance made available under this subtitle:

3 (1) A project for the reclamation and reuse of
4 wastewater, and naturally impaired ground and sur-
5 face waters, which has a completed feasibility study
6 that complies with Reclamation standards.

7 (2) A new water infrastructure facility project,
8 including a water conduit, pipeline, canal, pumping,
9 power, and associated facilities or a water efficiency
10 project.

11 (3) A project for accelerated repair and replace-
12 ment of an aging water distribution facility.

13 (4) A brackish or sea water desalination
14 project.

15 (5) A project for groundwater replenishment,
16 groundwater storage, or surface storage.

17 (6) A combination of projects, each of which is
18 eligible under paragraphs (1) through (5), for which
19 an eligible entity or group of eligible entities submits
20 a single application.

21 (b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—For
22 purposes of this subtitle, an eligible activity with respect
23 to an eligible project under subsection (a) includes the cost
24 of—

1 (1) development-phase activities, including plan-
2 ning, feasibility analysis, revenue forecasting, envi-
3 ronmental review, permitting, preliminary engineer-
4 ing and design work, and other preconstruction ac-
5 tivities;

6 (2) construction, reconstruction, rehabilitation,
7 and replacement activities;

8 (3) the acquisition of real property (including
9 water rights, land relating to the project, and im-
10 provements to land), environmental mitigation, con-
11 struction contingencies, and acquisition of equipment
12 subject to subsection (c);

13 (4) capitalized interest necessary to meet mar-
14 ket requirements, reasonably required reserve funds,
15 capital issuance expenses, and other carrying costs
16 during construction; and

17 (5) refinancing interim construction funding,
18 existing long-term project obligations, or a secured
19 loan or loan guarantee made under this subtitle.

20 (c) LIMITATION ON USE.—The proceeds from Fed-
21 eral credit instruments made available under this subtitle
22 may only be used to acquire non-Federal land or interest
23 in land from a willing seller, when the seller does not con-
24 test the purchase or price paid.

1 **SEC. 136. DETERMINATION OF ELIGIBILITY AND PROJECT**
2 **SELECTION.**

3 (a) **ELIGIBILITY REQUIREMENTS.**—To be eligible to
4 receive financial assistance under this subtitle, a project
5 shall meet the following criteria, as determined by the Sec-
6 retary of the Interior:

7 (1) **CREDITWORTHINESS.**—

8 (A) **IN GENERAL.**—Subject to subpara-
9 graph (B), the project shall be creditworthy, as
10 determined by the Secretary of the Interior,
11 who shall ensure that any financing for the
12 project has appropriate security features, such
13 as a rate covenant, to ensure repayment.

14 (B) **PRELIMINARY RATING OPINION LET-**
15 **TER.**—The Secretary of the Interior shall re-
16 quire each applicant to provide a preliminary
17 rating opinion letter from at least 1 rating
18 agency indicating that the senior obligations of
19 the project (which may be the Federal credit in-
20 strument) have the potential to achieve an in-
21 vestment-grade rating.

22 (2) **ELIGIBLE PROJECT COSTS.**—The eligible
23 project costs of a project shall be reasonably antici-
24 pated to be not less than \$20,000,000.

25 (3) **DEDICATED REVENUE SOURCES.**—The Fed-
26 eral credit instrument for the project shall be repay-

1 able, in whole or in part, from dedicated revenue
2 sources that also secure the project obligations.

3 (4) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
4 TIES.—A project carried out by a private entity shall
5 be sponsored by a State, department of a State, sub-
6 division of a State, or a public agency organized pur-
7 suant to State law.

8 (b) SELECTION CRITERIA.—

9 (1) ESTABLISHMENT.—The Secretary of the In-
10 terior shall establish criteria for the selection of
11 projects that meet the eligibility requirements of
12 subsection (a), in accordance with paragraph (2).

13 (2) CRITERIA.—The selection criteria shall in-
14 clude the following:

15 (A) The extent to which a project serves a
16 region with significant water resources chal-
17 lenges.

18 (B) The extent to which the project is na-
19 tionally or regionally significant.

20 (C) The extent to which assistance under
21 this section would foster innovative public-pri-
22 vate partnerships and attract private debt or
23 equity investment.

24 (D) The extent to which the project fos-
25 ters—

1 (i) collaborative partnerships between
2 cities, counties, water districts, and State
3 and Federal agencies; and

4 (ii) innovative recycling programs that
5 augment a combination of industrial, com-
6 mercial, residential, and agricultural uses.

7 (E) The likelihood that assistance under
8 this section would enable the project to proceed
9 at an earlier date than the project would other-
10 wise be able to proceed.

11 (F) The amount of budget authority re-
12 quired to fund the Federal credit instrument
13 made available under this subtitle.

14 (G) The extent to which the project helps
15 maintain or protect the environment.

16 (3) CONSISTENCY OF CRITERIA.—Not later
17 than 180 days after the date of enactment of this
18 Act, the Secretary of the Interior shall issue eligi-
19 bility requirements under this title for water recy-
20 cling projects that reclaim and reuse municipal, in-
21 dustrial, domestic, or agricultural wastewater or im-
22 paired ground or surface waters.

23 (c) RECEIPT OF OTHER FEDERAL FUNDING.—Re-
24 ceipt of a Federal grant or contract or other Federal fund-
25 ing to support an eligible project shall not preclude the

1 project from being eligible for assistance under this sub-
2 title. Assistance under this subtitle shall not be counted
3 as Federal funding under cost-sharing requirements other-
4 wise applicable to a project eligible for assistance under
5 this subtitle.

6 **SEC. 137. SECURED LOANS.**

7 (a) AGREEMENTS.—

8 (1) IN GENERAL.—Subject to paragraphs (2)
9 through (4), the Secretary of the Interior may enter
10 into agreements with 1 or more obligors to make se-
11 cured loans, the proceeds of which shall be used—

12 (A) to finance eligible project costs of any
13 project selected under section 136;

14 (B) to refinance interim construction fi-
15 nancing of eligible project costs of any project
16 selected under section 136; or

17 (C) to refinance long-term project obliga-
18 tions or Federal credit instruments, if that refi-
19 nancing provides additional funding capacity for
20 the completion, enhancement, or expansion of
21 any project that—

22 (i) is selected under section 136; or

23 (ii) otherwise meets the requirements
24 of section 136.

1 (2) LIMITATION ON REFINANCING OF INTERIM
2 CONSTRUCTION FINANCING.—A secured loan under
3 paragraph (1) shall not be used to refinance interim
4 construction financing under paragraph (1)(B) later
5 than 1 year after the date of substantial completion
6 of the applicable project.

7 (3) RISK ASSESSMENT.—Before entering into
8 an agreement under this subsection for a secured
9 loan, the Secretary of the Interior, in consultation
10 with the Director of the Office of Management and
11 Budget and each rating agency providing a prelimi-
12 nary rating opinion letter under section
13 136(a)(1)(B), shall determine an appropriate capital
14 reserve subsidy amount for the secured loan, taking
15 into account each such preliminary rating opinion
16 letter.

17 (4) INVESTMENT-GRADE RATING REQUIRE-
18 MENT.—The execution of a secured loan under this
19 section shall be contingent on receipt by the senior
20 obligations of the project of an investment-grade rat-
21 ing.

22 (b) TERMS AND LIMITATIONS.—

23 (1) IN GENERAL.—A secured loan provided for
24 a project under this section shall be subject to such
25 terms and conditions, and contain such covenants,

1 representations, warranties, and requirements (in-
2 cluding requirements for audits), as the Secretary of
3 the Interior determines to be appropriate.

4 (2) NONSUBORDINATION.—A secured loan
5 under this section shall not be subordinated to the
6 claims of any holder of project obligations in the
7 event of bankruptcy, insolvency, or liquidation of the
8 obligor of the project.

9 (3) MAXIMUM AMOUNT.—The amount of a se-
10 cured loan under this section shall not exceed the
11 lesser of—

12 (A) an amount equal to 49 percent of the
13 reasonably anticipated eligible project costs; and

14 (B) if the secured loan does not receive an
15 investment-grade rating, an amount equal to
16 other project obligations that have received an
17 investment-grade rating.

18 (4) PAYMENT.—A secured loan under this sec-
19 tion—

20 (A) shall be payable, in whole or in part,
21 from State or local taxes, user fees, or other
22 dedicated revenue sources that also secure the
23 senior project obligations of the relevant
24 project;

1 (B) shall include a rate covenant, coverage
2 requirement, or similar security feature sup-
3 porting the project obligations; and

4 (C) may have a lien on revenues described
5 in subparagraph (A), subject to any lien secur-
6 ing project obligations.

7 (5) INTEREST RATE.—The interest rate on a
8 secured loan under this section shall be not less than
9 the yield on United States Treasury securities of a
10 similar maturity to the maturity of the secured loan
11 on the date of execution of the loan agreement.

12 (6) MATURITY DATE.—The final maturity date
13 of a secured loan under this section shall be not
14 later than 35 years after the date of substantial
15 completion of the relevant project.

16 (7) FEES.—The Secretary of the Interior may
17 establish fees, in accordance with section 138(b)(2)
18 at a level sufficient to cover all or a portion of the
19 costs to the Federal Government of making a se-
20 cured loan under this section.

21 (8) NON-FEDERAL SHARE.—The proceeds of a
22 secured loan under this section may be used to pay
23 any non-Federal share of project costs required if
24 the loan is repayable from non-Federal funds.

1 (9) MAXIMUM FEDERAL INVOLVEMENT.—The
2 total amount of Federal assistance provided for a
3 project for which assistance is provided under this
4 subtitle from all sources (including this subtitle)
5 shall not exceed 80 percent of the total cost of the
6 project.

7 (c) REPAYMENT.—

8 (1) SCHEDULE.—The Secretary of the Interior
9 shall establish a repayment schedule for each se-
10 cured loan provided under this section, based on the
11 projected cash flow from project revenues and other
12 repayment sources.

13 (2) COMMENCEMENT.—Scheduled loan repay-
14 ment of principal or interest on a secured loan under
15 this section shall commence not later than 5 years
16 after the date of substantial completion of the
17 project, with interest accruing during those 5 years
18 and during construction.

19 (3) DEFERRED PAYMENTS.—

20 (A) AUTHORIZATION.—If, at any time
21 after the date of substantial completion of a
22 project for which a secured loan is provided
23 under this section, the project is unable to gen-
24 erate sufficient revenues to pay the scheduled
25 loan repayments of principal and interest on the

1 secured loan, the Secretary of the Interior may
2 allow the obligor, subject to subparagraph (C),
3 to add unpaid principal and interest to the out-
4 standing balance of the secured loan.

5 (B) INTEREST.—Any payment deferred
6 under subparagraph (A) shall—

7 (i) continue to accrue interest in ac-
8 cordance with subsection (b)(5) until fully
9 repaid; and

10 (ii) be scheduled to be amortized over
11 the remaining term of the secured loan.

12 (C) CRITERIA.—

13 (i) IN GENERAL.—Any payment defere-
14 ral under subparagraph (A) shall be con-
15 tingent on the project meeting such cri-
16 teria as the Secretary of the Interior may
17 establish.

18 (ii) REPAYMENT STANDARDS.—The
19 criteria established under clause (i) shall
20 include standards for reasonable assurance
21 of repayment.

22 (4) PREPAYMENT.—

23 (A) USE OF EXCESS REVENUES.—Any ex-
24 cess revenues that remain after satisfying
25 scheduled debt service requirements on the

1 project obligations and secured loan and all de-
2 posit requirements under the terms of any trust
3 agreement, bond resolution, or similar agree-
4 ment securing project obligations may be ap-
5 plied annually to prepay a secured loan under
6 this section without penalty.

7 (B) USE OF PROCEEDS OF REFI-
8 NANCING.—A secured loan under this section
9 may be prepaid at any time without penalty
10 from the proceeds of refinancing from non-Fed-
11 eral funding sources.

12 (d) SALE OF SECURED LOANS.—

13 (1) IN GENERAL.—Subject to paragraph (2), as
14 soon as practicable after the date of substantial
15 completion of a project and after providing a notice
16 to the obligor, the Secretary of the Interior may sell
17 to another entity or reoffer into the capital markets
18 a secured loan for a project under this section, if the
19 Secretary of the Interior determines that the sale or
20 reoffering can be made on favorable terms.

21 (2) CONSENT OF OBLIGOR.—In making a sale
22 or reoffering under paragraph (1), the Secretary of
23 the Interior may not change the original terms and
24 conditions of the secured loan without the written
25 consent of the obligor.

1 (e) LOAN GUARANTEES.—

2 (1) IN GENERAL.—The Secretary of the Inte-
3 rior may provide a loan guarantee to a lender in lieu
4 of making a secured loan under this section, if the
5 Secretary of the Interior determines that the budg-
6 etary cost of the loan guarantee is substantially the
7 same as that of a secured loan.

8 (2) TERMS.—The terms of a loan guarantee
9 provided under this subsection shall be consistent
10 with the terms established in this section for a se-
11 cured loan, except that the rate on the guaranteed
12 loan and any prepayment features shall be nego-
13 tiated between the obligor and the lender, with the
14 consent of the Secretary of the Interior.

15 **SEC. 138. PROGRAM ADMINISTRATION.**

16 (a) REQUIREMENT.—The Secretary of the Interior
17 shall establish a uniform system to service the Federal
18 credit instruments made available under this subtitle.

19 (b) RECLAMATION LOAN FINANCE CAPITAL RE-
20 SERVE FUND.—

21 (1) ESTABLISHMENT.—

22 (A) IN GENERAL.—There is established in
23 the Treasury of the United States a fund, to be
24 known as the “Reclamation Loan Finance Cap-
25 ital Reserve Fund”.

1 (B) DEPOSITS TO FUND.—The Secretary
2 of the Treasury shall deposit in the fund estab-
3 lished by subparagraph (A) an amount equal to
4 the amount of capital reserve fees collected
5 under paragraph (2) for each applicable fiscal
6 year.

7 (C) TREATMENT.—The amounts deposited
8 in the fund under subparagraph (B) shall be
9 credited as offsetting collections.

10 (2) CAPITAL RESERVE FEES.—

11 (A) IN GENERAL.—To the extent required
12 by appropriations Acts, the Secretary of the In-
13 terior may assess, collect, and spend capital re-
14 serve fees at a level that is sufficient to cover
15 all or a portion of the costs to the Federal Gov-
16 ernment of servicing the Federal credit instru-
17 ments provided under this subtitle, including all
18 or a portion of the outlays associated with the
19 provision of the Federal credit instruments
20 under this subtitle.

21 (B) AMOUNT.—The capital reserve fees
22 under this paragraph shall be established at
23 amounts that will result in the collection, dur-
24 ing each fiscal year, of an amount that can be
25 reasonably expected to equal the outlays associ-

1 ated with the provision of the Federal credit in-
2 struments under this subtitle.

3 (c) SERVICER.—

4 (1) IN GENERAL.—The Secretary of the Inte-
5 rior may appoint a financial entity to assist the Sec-
6 retary in servicing the Federal credit instruments
7 provided under this subtitle.

8 (2) DUTIES.—A servicer appointed under para-
9 graph (1) shall act as the agent for the Secretary of
10 the Interior.

11 (3) FEE.—A servicer appointed under para-
12 graph (1) shall receive a servicing fee, subject to ap-
13 proval by the Secretary of the Interior.

14 **SEC. 139. STATE AND LOCAL PERMITS.**

15 (a) ESTABLISHMENT OF PILOT PROGRAM.—

16 (1) ASSUMPTION OF RESPONSIBILITY.—

17 (A) IN GENERAL.—Subject to the provi-
18 sions of the pilot program established by this
19 section, the Secretary of the Interior and a
20 State identified pursuant to subsection (b) may
21 enter into a written agreement, which may be
22 in the form of a memorandum of under-
23 standing, under which the Secretary of the In-
24 terior may designate the State as lead agency

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

3 (B) PROCEDURAL AND SUBSTANTIVE RE-
4 QUIREMENTS.—If designated as the lead agency
5 under subparagraph (A), the State shall assume
6 responsibility under this section, subject to the
7 same procedural and substantive requirements
8 that would apply if that responsibility were car-
9 ried out by the Secretary of the Interior.

10 (2) PRESERVATION OF FEDERAL RESPONSI-
11 BILITY AND AUTHORITY.—

12 (A) FEDERAL RESPONSIBILITY.—Any re-
13 sponsibility of the Secretary of the Interior not
14 explicitly assumed by the State by written
15 agreement under this section shall remain the
16 responsibility of the Secretary of the Interior.

17 (B) NO EFFECT ON AUTHORITY.—Nothing
18 in this section preempts or interferes with any
19 power, jurisdiction, responsibility, or authority
20 of an agency, other than the Department of the
21 Interior, under applicable law (including regula-
22 tions) with respect to a project.

23 (3) PRESERVATION OF FLEXIBILITY.—The Sec-
24 retary of the Interior may not require a State, as a
25 condition of participation and assuming lead agency

1 status in the pilot program under this section, to
2 forego project delivery methods that are otherwise
3 permissible for projects.

4 (b) STATE PARTICIPATION.—

5 (1) PARTICIPATING STATES.—The Secretary of
6 the Interior shall permit the State of California, and
7 not more than 4 additional States, to participate in
8 the pilot program under this section, subject to the
9 limitations described in paragraph (4).

10 (2) APPLICATION.—Not later than 270 days
11 after the date of enactment of this Act, the Sec-
12 retary of the Interior shall amend, as appropriate,
13 regulations that establish requirements relating to
14 information required to be contained in an applica-
15 tion of a State to participate in the pilot program
16 under this section and to assume lead agency status,
17 including, at a minimum—

18 (A) the projects or classes of projects for
19 which the State anticipates exercising the au-
20 thority that may be granted under the pilot
21 program under this section;

22 (B) verification of the financial, regulatory,
23 and enforcement resources necessary to carry
24 out the authority that may be granted under
25 the pilot program under this section; and

1 (C) evidence of the notice and solicitation
2 of public comment by the State relating to par-
3 ticipation of the State in the pilot program
4 under this section, including copies of com-
5 ments received from that solicitation.

6 (3) PUBLIC NOTICE.—

7 (A) IN GENERAL.—A State that submits
8 an application under this subsection shall give
9 notice of the intent of the State to participate
10 in the pilot program under this section not later
11 than 30 days before the date of submission of
12 the application.

13 (B) METHOD OF NOTICE AND SOLICITA-
14 TION.—A State shall provide notice and solicit
15 public comment under this paragraph by pub-
16 lishing the complete application of the State in
17 accordance with the appropriate public notice
18 State law.

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

22 (A) the regulatory requirements of para-
23 graph (2) have been met;

24 (B) the Secretary of the Interior deter-
25 mines that the State has the capability, includ-

1 ing financial, regulatory, and enforcement capa-
2 bility and personnel, to assume the responsi-
3 bility of a lead agency for the project; and

4 (C) the head of the State agency with pri-
5 mary jurisdiction over water infrastructure mat-
6 ters enters into a written agreement with the
7 Secretary of the Interior described in subsection
8 (c).

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

11 (1) be executed by the Governor or the top
12 ranking water infrastructure official in the State
13 who is charged with responsibility for water infra-
14 structure construction;

15 (2) be in such form as the Secretary of the In-
16 terior may prescribe;

17 (3) provide that the State—

18 (A) agrees to assume all or part of the re-
19 sponsibilities of the Secretary of the Interior de-
20 scribed in subsection (a), including all respon-
21 sibilities as a lead agency;

22 (B) expressly consents, on behalf of the
23 State, to accept the jurisdiction of the Federal
24 courts for the compliance, discharge, and en-

1 enforcement of any responsibility of the Secretary
2 of the Interior assumed by the State;

3 (C) certifies that State laws (including reg-
4 ulations) are in effect that authorize the State
5 to take the actions necessary to carry out the
6 responsibilities being assumed; and

7 (D) agrees to maintain the financial re-
8 sources necessary to carry out the responsibil-
9 ities being assumed;

10 (4) require the State to provide to the Secretary
11 of the Interior any information that the Secretary of
12 the Interior considers necessary to ensure that the
13 State is adequately carrying out the responsibilities
14 assigned to the State;

15 (5) have a term of not more than 5 years; and

16 (6) be renewable.

17 (d) JURISDICTION.—

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

22 (2) LEGAL STANDARDS AND REQUIREMENTS.—

23 A civil action under paragraph (1) shall be governed
24 by the legal standards and requirements that would
25 apply in such a civil action against the Secretary of

1 the Interior if the Secretary of the Interior had
2 taken the actions in question.

3 (3) INTERVENTION.—The Secretary of the Inte-
4 rior shall have the right to intervene in any action
5 described in paragraph (1).

6 (e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—
7 A State that assumes responsibility under subsection
8 (a)(2) shall be solely responsible and solely liable for car-
9 rying out, in lieu of the Secretary of the Interior, the re-
10 sponsibilities assumed under subsection (a), until the pilot
11 program is terminated as provided in subsection (h).

12 (f) AUDITS.—

13 (1) IN GENERAL.—To ensure compliance by a
14 State with any agreement of the State under sub-
15 section (c) (including compliance by the State with
16 all Federal laws for which responsibility is assumed
17 under subsection (a)(2)), for each State partici-
18 pating in the pilot program under this section, the
19 Secretary of the Interior shall conduct—

20 (A) semiannual audits during each of the
21 first 2 years of State participation; and

22 (B) annual audits during of the third and
23 fourth years of State participation.

24 (2) PUBLIC AVAILABILITY AND COMMENT.—

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

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

9 (g) MONITORING.—After the fourth year of the par-
10 ticipation of a State in the pilot program, the Secretary
11 of the Interior shall monitor compliance by the State with
12 the written agreement, including the provision by the
13 State of financial resources to carry out the written agree-
14 ment.

15 (h) TERMINATION.—

16 (1) TERMINATION BY SECRETARY OF THE IN-
17 TERIOR.—The Secretary of the Interior may termi-
18 nate the participation of any State in the pilot pro-
19 gram if—

20 (A) the Secretary of the Interior deter-
21 mines that the State is not adequately carrying
22 out the responsibilities assigned to the State;

23 (B) the Secretary of the Interior provides
24 to the State—

1 (i) notification of the determination of
2 noncompliance; and

3 (ii) a period of at least 30 days during
4 which to take such corrective action as the
5 Secretary of the Interior determines is nec-
6 essary to comply with the applicable agree-
7 ment; and

8 (C) the State, after the notification and
9 period provided under subparagraph (B), fails
10 to take satisfactory corrective action, as deter-
11 mined by Secretary of the Interior.

12 (2) TERMINATION BY STATE.—The State may
13 terminate the participation of the State in the pilot
14 program at any time by providing to the Secretary
15 of the Interior a notice by not later than the date
16 that is 90 days before the date of termination, and
17 subject to such terms and conditions as the Sec-
18 retary of the Interior may provide.

19 (i) LIMITATIONS ON AGREEMENTS.—Nothing in this
20 section or pilot program—

21 (1) authorizes a State to assume any rule-
22 making authority of the Secretary of the Interior
23 under any Federal law;

1 (2) relieves any recipient of the assistance of
2 any obligation to obtain any other required State or
3 local permit or approval with respect to the project;

4 (3) limits the right of any unit of State or local
5 government to approve or regulate any rate of re-
6 turn on private equity invested in the project; or

7 (4) otherwise supersedes any State or local law
8 (including any regulation) applicable to the construc-
9 tion or operation of the project.

10 **SEC. 140. REGULATIONS.**

11 The Secretary of the Interior may promulgate such
12 regulations as the Secretary of the Interior determines to
13 be appropriate to carry out this subtitle.

14 **SEC. 141. FUNDING.**

15 (a) **IN GENERAL.**—There is authorized to be appro-
16 priated to the Secretary of the Interior to carry out this
17 subtitle \$200,000,000.

18 (b) **OFFSET REQUIRED.**—No funds made available
19 under this section may be used to provide financial assist-
20 ance under this subtitle unless sufficient funds have been
21 appropriated to offset any decrease in Federal revenue re-
22 sulting from the use by any unit of State or local govern-
23 ment of proceeds of any obligation—

1 (1) the interest on which is exempt from the
2 tax imposed under chapter 1 of the Internal Rev-
3 enue Code of 1986; or

4 (2) with respect to which credit is allowable
5 under subpart I or J of part IV of subchapter A of
6 chapter 1 of that Code.

7 (c) ADMINISTRATIVE COSTS.—Of the funds made
8 available to carry out this subtitle, the Secretary of the
9 Interior may use for the administration of this subtitle not
10 more than \$2,200,000 for each of fiscal years 2016
11 through 2020.

12 (d) LIMITATION.—Neither the Secretary of the Inte-
13 rior nor the Secretary of Commerce shall enter into a con-
14 tract with, or provide Federal funds or other financial as-
15 sistance in the form of a loan, loan guarantee, annual pay-
16 ment, or any other form of credit enhancement to a recipi-
17 ent under this Act without first obtaining adequate assur-
18 ance from the contractor or recipient that the require-
19 ments of section 513 of the Federal Water Pollution Con-
20 trol Act (33 U.S.C. 1372) shall be applied in the same
21 manner they are applied to construction of treatment
22 works carried out in whole or in part with assistance made
23 available by a State water pollution control revolving fund
24 as authorized by title VI of that Act (33 U.S.C. 1381 et

1 seq.) under title II of division E of Public Law 112–74
2 (125 Stat. 1020).

3 **TITLE II—LISTED SPECIES AND**
4 **WILDLIFE**

5 **SEC. 201. ACTIONS TO BENEFIT ENDANGERED FISH POPU-**
6 **LATIONS.**

7 (a) FINDINGS.—Congress finds that—

8 (1) minimizing or eliminating stressors to fish
9 populations and their habitat in an efficient and
10 structured manner is a key aspect of a fish recovery
11 strategy;

12 (2) functioning, diverse, and interconnected
13 habitats are necessary for a species to be viable; and

14 (3) providing for increased fish habitat may not
15 only allow for a more robust fish recovery, but also
16 reduce impacts to water supplies.

17 (b) ACTIONS FOR BENEFIT OF ENDANGERED SPE-
18 CIES.—There is authorized to be appropriated the fol-
19 lowing amounts:

20 (1) \$35,000,000 for the Secretary of Com-
21 merce, through the Administrator of the National
22 Oceanic and Atmospheric Administration, to carry
23 out the following activities in accordance with the
24 Endangered Species Act of 1973 (16 U.S.C. 1531 et
25 seq.):

1 (A) Gravel and rearing area additions and
2 habitat restoration to the Sacramento River to
3 benefit Chinook salmon and steelhead trout.

4 (B) Scientifically improved and increased
5 real-time monitoring to inform real-time oper-
6 ations of Shasta and related Central Valley
7 Project facilities, and alternative methods, mod-
8 els, and equipment to improve temperature
9 modeling and related forecasted information for
10 purposes of predicting impacts to salmon and
11 salmon habitat as a result of water manage-
12 ment at Shasta.

13 (C) Methods to improve the Delta salvage
14 systems, including alternative methods to rede-
15 posit salvaged salmon smolts and other fish
16 from the Delta in a manner that reduces preda-
17 tion losses.

18 (2) \$6,000,000 for the Secretary of the Interior
19 to conduct the Delta smelt distribution study ref-
20 erenced in section 301.

21 (c) COMMENCEMENT.—If the Administrator of the
22 National Oceanic and Atmospheric Administration deter-
23 mines that a proposed activity is feasible and beneficial
24 for protecting and recovering a fish population, the Ad-
25 ministrator shall commence implementation of the activity

1 by not later than 1 year after the date of enactment of
2 this Act.

3 (d) CONSULTATION.—The Administrator shall take
4 such steps as are necessary to partner with, and coordi-
5 nate the efforts of, the Department of the Interior, the
6 Department of Commerce, and other relevant Federal de-
7 partments and agencies to ensure that all Federal reviews,
8 analyses, opinions, statements, permits, licenses, and
9 other approvals or decisions required under Federal law
10 are completed on an expeditious basis, consistent with
11 Federal law.

12 (e) TRAP AND BARGE PILOT PROGRAM.—

13 (1) IN GENERAL.—The Department of Com-
14 merce, in collaboration with the Department of the
15 Interior, the California Department of Fish and
16 Wildlife, applicable water agencies, and other inter-
17 ested parties, shall design, permit, implement, and
18 evaluate a pilot program to test the efficacy of an
19 experimental trap and barge program to improve
20 survival of juvenile salmonids emigrating from the
21 San Joaquin watershed through the Delta.

22 (2) PLAN.—

23 (A) WORKING GROUP.—Not later than 30
24 days after the date of enactment of this Act,
25 the Assistant Administrator and the Commis-

1 sioner shall convene a working group, to be
2 comprised of representatives of relevant agen-
3 cies and other interested parties, to develop and
4 execute a plan for the design, budgeting, imple-
5 mentation, and evaluation of the pilot program
6 under this subsection, using such existing ex-
7 pertise regarding trap and barge programs as
8 may be available.

9 (B) REQUIREMENTS.—The plan under this
10 paragraph shall—

11 (i) include a schedule and budget for
12 the pilot program; and

13 (ii) identify the responsible parties for
14 each element of the program.

15 (3) IMPLEMENTATION.—The Assistant Admin-
16 istrator and the Commissioner shall seek to com-
17 mence implementation of the pilot program under
18 this subsection during calendar year 2016, if prac-
19 ticable.

20 (4) AUTHORIZATION OF APPROPRIATIONS.—
21 There is authorized to be appropriated to carry out
22 this subsection \$4,000,000.

23 (f) CONSERVATION FISH HATCHERIES.—

24 (1) IN GENERAL.—Not later than 2 years after
25 the date of enactment of this Act, the Secretaries of

1 the Interior and Commerce, in coordination with the
2 Director of the California Department of Fish and
3 Wildlife, shall develop and implement as necessary
4 the expanded use of conservation hatchery programs
5 to enhance, supplement, and rebuild Delta smelt and
6 Endangered Species Act-listed fish species under the
7 smelt and salmonid biological opinions.

8 (2) REQUIREMENTS.—The conservation hatch-
9 ery programs established under paragraph (1) and
10 the associated hatchery and genetic management
11 plans shall be designed—

12 (A) to benefit, enhance, support, and oth-
13 erwise recover naturally spawning fish species
14 to the point where the measures provided under
15 the Endangered Species Act of 1973 (16 U.S.C.
16 1531 et seq.) are no longer necessary; and

17 (B) to minimize adverse effects to Central
18 Valley Project and State Water Project oper-
19 ations.

20 (3) PRIORITY; COOPERATIVE AGREEMENTS.—In
21 implementing this section, the Secretaries of the In-
22 terior and Commerce—

23 (A) shall give priority to existing and pro-
24 spective hatchery programs and facilities within

1 the Delta and the riverine tributaries thereto;
2 and

3 (B) may enter into cooperative agreements
4 for the operation of conservation hatchery pro-
5 grams with States, Indian tribes, and other
6 nongovernmental entities for the benefit, en-
7 hancement, and support of naturally spawning
8 fish species.

9 (g) ACQUISITION OF LAND, WATER, OR INTERESTS
10 FROM WILLING SELLERS FOR ENVIRONMENTAL PUR-
11 POSES IN CALIFORNIA.—

12 (1) IN GENERAL.—The Secretary of the Inte-
13 rior is authorized to acquire by purchase, lease, do-
14 nation, or otherwise, land, water, or interests in land
15 or water from willing sellers in California—

16 (A) to benefit listed or candidate species
17 under the Endangered Species Act of 1973 (16
18 U.S.C. 1531 et seq.) or the California Endan-
19 gered Species Act (California Fish and Game
20 Code sections 2050 through 2116);

21 (B) to meet requirements of, or otherwise
22 provide water quality benefits under, the Fed-
23 eral Water Pollution Control Act (33 U.S.C.
24 1251 et seq.) or the Porter Cologne Water

1 Quality Control Act (division 7 of the California
2 Water Code); or

3 (C) for protection and enhancement of the
4 environment, as determined by the Secretary of
5 the Interior.

6 (2) FINANCIAL ASSISTANCE.—In implementing
7 this section, the Secretary of the Interior is author-
8 ized to provide financial assistance to the State of
9 California or otherwise hold such interests in joint
10 ownership with the State of California based on a
11 cost share deemed appropriate by the Secretary.

12 (3) TREATMENT.—Any expenditures under this
13 subsection shall be nonreimbursable and nonreturn-
14 able to the United States.

15 **SEC. 202. ACTIONS TO BENEFIT REFUGES.**

16 (a) IN GENERAL.—In addition to funding under sec-
17 tion 3407 of the Central Valley Project Improvement Act
18 (Public Law 102–575; 106 Stat. 4726), there is author-
19 ized to be appropriated to the Secretary of the Interior
20 \$2,000,000 for each of fiscal years 2016 through 2020
21 for the acceleration and completion of water infrastructure
22 and conveyance facilities necessary to achieve full water
23 deliveries to Central Valley wildlife refuges and habitat
24 areas pursuant to section 3406(d) of that Act (Public Law
25 102–575; 106 Stat. 4722).

1 (b) COST-SHARING.—

2 (1) FEDERAL SHARE.—The Federal share of
3 the cost of carrying out an activity described in this
4 section shall be not more than 50 percent.

5 (2) NON-FEDERAL SHARE.—The non-Federal
6 share of the cost of carrying out an activity de-
7 scribed in this section—

8 (A) shall be not less than 50 percent; and

9 (B) may be provided in cash or in-kind.

10 **SEC. 203. NON-FEDERAL PROGRAM TO PROTECT NATIVE**
11 **ANADROMOUS FISH IN STANISLAUS RIVER.**

12 (a) DEFINITION OF DISTRICT.—In this section, the
13 term “district” means—

14 (1) the Oakdale Irrigation District of the State
15 of California; and

16 (2) the South San Joaquin Irrigation District
17 of the State of California.

18 (b) ESTABLISHMENT.—The Secretary of Commerce,
19 acting through the Assistant Administrator of the Na-
20 tional Marine Fisheries Service, and the districts, in con-
21 sultation with the Director of the California Department
22 of Fish and Wildlife, shall jointly establish and conduct
23 a nonnative predator research and pilot fish removal pro-
24 gram to study the effects of removing from the Stanislaus
25 River—

1 (1) nonnative striped bass, smallmouth bass,
2 largemouth bass, black bass; and

3 (2) other nonnative predator fish species.

4 (c) REQUIREMENTS.—The program under this sec-
5 tion shall—

6 (1) be scientifically based, with research ques-
7 tions determined jointly by—

8 (A) National Marine Fisheries Service sci-
9 entists; and

10 (B) technical experts of the districts;

11 (2) include methods to quantify by, among
12 other things, evaluating the number of juvenile
13 anadromous fish that migrate past the rotary screw
14 trap located at Caswell—

15 (A) the number and size of predator fish
16 removed each year; and

17 (B) the impact of the removal on—

18 (i) the overall abundance of predator
19 fish in the Stanislaus River; and

20 (ii) the populations of juvenile anad-
21 romous fish in the Stanislaus River;

22 (3) among other methods, consider using wire
23 fyke trapping, portable resistance board weirs, and
24 boat electrofishing; and

1 (4) be implemented as quickly as practicable
2 after the date of issuance of all necessary scientific
3 research permits.

4 (d) MANAGEMENT.—The management of the pro-
5 gram shall be the joint responsibility of the Assistant Ad-
6 ministrator and the districts, which shall—

7 (1) work collaboratively to ensure the perform-
8 ance of the program; and

9 (2) discuss and agree on, among other things—

10 (A) qualified scientists to lead the pro-
11 gram;

12 (B) research questions;

13 (C) experimental design;

14 (D) changes in the structure, management,
15 personnel, techniques, strategy, data collection
16 and access, reporting, and conduct of the pro-
17 gram; and

18 (E) the need for independent peer review.

19 (e) CONDUCT.—

20 (1) IN GENERAL.—For each applicable calendar
21 year, the districts, on agreement of the Assistant
22 Administrator, may elect to conduct the program
23 under this section using—

24 (A) the personnel of the Assistant Admin-
25 istrator or districts;

1 (B) qualified private contractors hired by
2 the districts;

3 (C) personnel of, on loan to, or otherwise
4 assigned to the National Marine Fisheries Serv-
5 ice; or

6 (D) a combination of the individuals de-
7 scribed in subparagraphs (A) through (C).

8 (2) PARTICIPATION BY NATIONAL MARINE
9 FISHERIES SERVICE.—

10 (A) IN GENERAL.—If the districts elect to
11 conduct the program using district personnel or
12 qualified private contractors hired under sub-
13 paragraph (A) or (B) of paragraph (1), the As-
14 sistant Administrator may assign an employee
15 of, on loan to, or otherwise assigned to the Na-
16 tional Marine Fisheries Service, to be present
17 for all activities performed in the field to ensure
18 compliance with subsection (d).

19 (B) COSTS.—The districts shall pay the
20 cost of participation by the employee under sub-
21 paragraph (A), in accordance with subsection
22 (f).

23 (3) TIMING OF ELECTION.—The districts shall
24 notify the Assistant Administrator of an election
25 under paragraph (1) by not later than October 15

1 of the calendar year preceding the calendar year for
2 which the election applies.

3 (f) FUNDING.—

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

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

10 (3) ESTIMATION OF COST.—

11 (A) IN GENERAL.—Not later than Decem-
12 ber 1 of each year of the program, the Sec-
13 retary of Commerce shall submit to the districts
14 an estimate of the cost to be incurred by the
15 National Marine Fisheries Service for the pro-
16 gram during the following calendar year, if any,
17 including the cost of any data collection and
18 posting under subsection (g).

19 (B) FAILURE TO FUND.—If an amount
20 equal to the estimate of the Secretary of Com-
21 merce is not provided through contributions
22 pursuant to paragraph (2) before December 31
23 of that calendar year—

24 (i) the Secretary shall have no obliga-
25 tion to conduct the program activities oth-

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

4 (ii) the districts may not conduct any
5 aspect of the program until the amount is
6 contributed by the districts.

7 (4) ACCOUNTING.—

8 (A) IN GENERAL.—Not later than Sep-
9 tember 1 of each year, the Secretary of Com-
10 merce shall provide to the districts an account-
11 ing of the costs incurred by the Secretary for
12 the program during the preceding calendar
13 year.

14 (B) EXCESS AMOUNTS.—If the amount
15 contributed by the districts pursuant to para-
16 graph (2) for a calendar year was greater than
17 the costs incurred by the Secretary of Com-
18 merce during that year, the Secretary shall—

19 (i) apply the excess amounts to the
20 cost of activities to be performed by the
21 Secretary under the program, if any, dur-
22 ing the following calendar year; or

23 (ii) if no such activities are to be per-
24 formed, repay the excess amounts to the
25 districts.

1 (g) PUBLICATION AND EVALUATION OF DATA.—

2 (1) IN GENERAL.—All data generated through
3 the program, including by any private consultants,
4 shall be routinely provided to the Assistant Adminis-
5 trator.

6 (2) INTERNET.—Not later than the 15th day of
7 each month of the program, the Assistant Adminis-
8 trator shall publish on the Internet website of the
9 National Marine Fisheries Service a tabular sum-
10 mary of the raw data collected under the program
11 during the preceding month.

12 (3) REPORT.—On completion of the program,
13 the Assistant Administrator shall prepare a final re-
14 port evaluating the effectiveness of the program, in-
15 cluding recommendations for future research and re-
16 moval work.

17 (h) CONSISTENCY WITH LAW.—

18 (1) IN GENERAL.—The programs in this section
19 and section 204 are found to be consistent with the
20 requirements of the Central Valley Project Improve-
21 ment Act (Public Law 102–575; 106 Stat. 4706).

22 (2) LIMITATION.—No provision, plan, or defini-
23 tion under that Act, including section 3406(b)(1) of
24 that Act (Public Law 102–575; 106 Stat. 4714),
25 shall be used—

1 (A) to prohibit the implementation of the
2 programs in this section and section 204; or

3 (B) to prevent the accomplishment of the
4 goals of the programs.

5 (3) STATE LAW.—The Secretary of the Interior,
6 the Secretary of Commerce, and the participating
7 districts shall comply with applicable requirements
8 of State law with respect to the program under this
9 subsection.

10 **SEC. 204. PILOT PROJECTS TO IMPLEMENT CALFED**
11 **INVASIVE SPECIES PROGRAM.**

12 (a) IN GENERAL.—Not later than January 1, 2017,
13 the Secretary of the Interior, in collaboration with the Sec-
14 retary of Commerce, the Director of the California De-
15 partment of Fish and Wildlife, and other relevant agencies
16 and interested parties, shall establish and carry out pilot
17 projects to implement the invasive species control program
18 under section 103(d)(6)(A)(iv) of Public Law 108–361
19 (118 Stat. 1690).

20 (b) REQUIREMENTS.—The pilot projects under this
21 section shall—

22 (1) seek to reduce invasive aquatic vegetation
23 (such as water hyacinth), predators, and other com-
24 petitors that contribute to the decline of native listed
25 pelagic and anadromous species that occupy the Sac-

1 ramento and San Joaquin Rivers and their tribu-
2 taries and the Delta; and

3 (2) remove, reduce, or control the effects of spe-
4 cies including Asiatic clams, silversides, gobies, Bra-
5 zilian water weed, largemouth bass, smallmouth
6 bass, striped bass, crappie, bluegill, white and chan-
7 nel catfish, zebra and quagga mussels, and brown
8 bullheads.

9 (c) EMERGENCY ENVIRONMENTAL REVIEWS.—To
10 expedite environmentally beneficial programs in this title
11 for the conservation of threatened and endangered species,
12 the Secretaries of the Interior and Commerce shall consult
13 with the Council on Environmental Quality in accordance
14 with section 1506.11 of title 40, Code of Federal Regula-
15 tions (or successor regulations), to develop alternative ar-
16 rangements to comply with the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.) for those pro-
18 grams.

1 **TITLE III—CALIFORNIA EMER-**
2 **GENCY DROUGHT RELIEF**
3 **AND OPERATIONAL FLEXI-**
4 **BILITY**

5 **SEC. 301. TAKING INTO ACCOUNT INCREASED REAL-TIME**
6 **MONITORING AND UPDATED SCIENCE.**

7 (a) SMELT BIOLOGICAL OPINION.—The Director
8 shall use the best scientific and commercial data available
9 to implement, continuously evaluate, and refine or amend,
10 as appropriate, the reasonable and prudent alternative de-
11 scribed in the smelt biological opinion.

12 (b) INCREASED MONITORING TO INFORM REAL-TIME
13 OPERATIONS.—

14 (1) IN GENERAL.—The Secretary of the Inte-
15 rior shall conduct additional surveys, on an annual
16 basis at the appropriate time of year based on envi-
17 ronmental conditions, in collaboration with inter-
18 ested stakeholders regarding the science of the Delta
19 in general, and to enhance real time decisionmaking
20 in particular, working in close coordination with rel-
21 evant State authorities.

22 (2) REQUIREMENTS.—In carrying out this sub-
23 section, the Secretary of the Interior shall use—

24 (A) the most appropriate and accurate sur-
25 vey methods available for the detection of Delta

1 smelt to determine the extent to which adult
2 Delta smelt are distributed in relation to cer-
3 tain levels of turbidity or other environmental
4 factors that may influence salvage rate;

5 (B) results from appropriate surveys for
6 the detection of Delta smelt to determine how
7 the Central Valley Project and State Water
8 Project may be operated more efficiently to
9 maximize fish and water supply benefits; and

10 (C) science-based recommendations devel-
11 oped by any of the persons or entities described
12 in subsection (d)(2) to inform the agencies'
13 real-time decisions.

14 (3) WINTER MONITORING.—During the period
15 between December 1 and March 31, if suspended
16 sediment loads enter the Delta from the Sacramento
17 River, and the suspended sediment loads appear
18 likely to raise turbidity levels in the Old River north
19 of the export pumps from values below 12
20 Nephelometric Turbidity Units (NTUs) to values
21 above 12 NTUs, the Secretary of the Interior
22 shall—

23 (A) conduct daily monitoring using appro-
24 priate survey methods at locations including the
25 vicinity of Station 902 to determine the extent

1 to which adult Delta smelt are moving with tur-
2 bidity toward the export pumps; and

3 (B) use results from the monitoring under
4 subparagraph (A) to determine how increased
5 trawling can inform daily real-time Central Val-
6 ley Project and State Water Project operations
7 to maximize fish and water supply benefits.

8 (c) PERIODIC REVIEW OF MONITORING.—Not later
9 than 1 year after the date of enactment of this Act, the
10 Secretary of the Interior shall—

11 (1) evaluate whether the monitoring program
12 under subsection (b), combined with other moni-
13 toring programs for the Delta, is providing sufficient
14 data to inform Central Valley Project and State
15 Water Project operations to maximize the water sup-
16 ply for fish and water supply benefits; and

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

20 (d) DELTA SMELT DISTRIBUTION STUDY.—

21 (1) IN GENERAL.—Not later than March 15,
22 2021, the Secretary of the Interior shall—

23 (A) complete studies, to be initiated by not
24 later than 90 days after the date of enactment
25 of this Act, designed—

1 (i) to understand the location and de-
2 termine the abundance and distribution of
3 Delta smelt throughout the range of the
4 Delta smelt; and

5 (ii) to determine potential methods to
6 minimize the effects of Central Valley
7 Project and State Water Project oper-
8 ations on the Delta smelt;

9 (B) based on the best available science, if
10 appropriate and practicable, implement new tar-
11 geted sampling and monitoring of Delta smelt
12 in order to maximize fish and water supply ben-
13 efits prior to completion of the study under sub-
14 paragraph (A);

15 (C) to the maximum extent practicable,
16 use new technologies to allow for better track-
17 ing of Delta smelt, such as acoustic tagging, op-
18 tical recognition during trawls, and fish detec-
19 tion using residual deoxyribonucleic acid
20 (DNA); and

21 (D) if new sampling and monitoring is not
22 implemented under subparagraph (B), provide a
23 detailed explanation of the determination of the
24 Secretary of the Interior that no change is war-
25 ranted.

1 (2) CONSULTATION.—In determining the scope
2 of the studies under this subsection, the Secretary of
3 the Interior shall consult with—

4 (A) Central Valley Project and State
5 Water Project water contractors and public
6 water agencies;

7 (B) other public water agencies;

8 (C) the California Department of Fish and
9 Wildlife and the California Department of
10 Water Resources; and

11 (D) nongovernmental organizations.

12 (e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION
13 OF OMR FLOW REQUIREMENTS.—

14 (1) ENVIRONMENTAL PROTECTION MANDATE.—

15 The Secretaries of the Interior and Commerce shall
16 take no action pursuant to this Act that would cause
17 additional adverse effects on the listed fish species
18 beyond the range of effects anticipated to occur to
19 the listed fish species for the duration of the applica-
20 ble biological opinion, using the best scientific and
21 commercial data available.

22 (2) REAL-TIME MANAGEMENT TO ACHIEVE
23 MULTIPLE GOALS.—Building upon previous drought
24 operations in calendar years 2014 and 2015, the
25 Secretaries of the Interior and Commerce shall mon-

1 itor in real time to determine the location and den-
2 sities of listed fish species relative to the pumps,
3 Delta conditions, and other relevant factors, in order
4 to identify—

5 (A) opportunities to increase water pump-
6 ing without violating the standard in paragraph
7 (1) or other applicable environmental laws and
8 regulations; and

9 (B) circumstances where it is necessary to
10 decrease water pumping to protect listed fish
11 species.

12 (3) MANAGEMENT.—In implementing the smelt
13 biological opinion and the salmonid biological opin-
14 ion, the Secretaries of the Interior and Commerce
15 shall manage the OMR in accordance with those
16 opinions to maximize water supplies for the Central
17 Valley Project and State Water Project, to the ex-
18 tent consistent with paragraph (1).

19 (4) REVERSE FLOW.—

20 (A) IN GENERAL.—With respect to the
21 management of reverse flow in the OMR under
22 the smelt biological opinion, the Secretary of
23 the Interior shall implement the relevant provi-
24 sions of the smelt biological opinion to maxi-
25 mize Central Valley Project and State Water

1 Project water supplies, to the extent consistent
2 with paragraph (1).

3 (B) REQUIREMENTS.—If the Secretary de-
4 termines to manage rates of pumping at the
5 C.W. “Bill” Jones and the Harvey O. Banks
6 pumping plants in the southern Delta to
7 achieve a reverse OMR flow rate less negative
8 than -5,000 cubic feet per second, the Secretary
9 shall—

10 (i) document in writing any signifi-
11 cant facts regarding real-time conditions
12 relevant to the determinations of OMR re-
13 verse flow rates, including—

14 (I) targeted real-time fish moni-
15 toring in the Old River pursuant to
16 this section, including monitoring in
17 the vicinity of Station 902; and

18 (II) near-term forecasts with
19 available salvage models under pre-
20 vailing conditions of the effects on
21 Delta smelt of OMR flow of -5,000
22 cubic feet per second; and

23 (ii) explain in writing why any deci-
24 sion to manage OMR reverse flow at rates
25 less negative than -5,000 cubic feet per

1 second is necessary to comply with the en-
2 vironmental standard in subparagraph
3 (e)(1), after considering relevant factors
4 such as—

5 (I) the distribution of Delta
6 smelt throughout the Delta;

7 (II) the potential effects of high
8 entrainment risk on subsequent Delta
9 smelt abundance;

10 (III) the water temperature;

11 (IV) other significant factors rel-
12 evant to the determination, as re-
13 quired by applicable Federal or State
14 laws;

15 (V) turbidity; and

16 (VI) whether any alternative
17 measures could have a substantially
18 lesser water supply impact.

19 (5) IMMEDIATE ACTION.—Nothing in this sec-
20 tion shall prevent the Secretaries of the Interior or
21 Commerce from taking immediate action to reduce
22 pumping if necessary to do so to comply with the
23 Endangered Species Act, its implementing regula-
24 tions, or to avoid additional adverse effects on the
25 listed fish species beyond the range of effects antici-

1 pated to occur to the listed fish species for the dura-
2 tion of the applicable biological opinion.

3 (f) FIRST SEDIMENT FLUSH.—During the first flush
4 of sediment out of the Delta in each water year, based
5 on objective evidence and notwithstanding subsection (e),
6 the Secretary of the Interior shall manage OMR flow pur-
7 suant to the portion of the smelt biological opinion that
8 protects adult Delta smelt from the first flush if required
9 to do so by the smelt biological opinion.

10 (g) CONSTRUCTION.—The Secretaries of the Interior
11 and Commerce may—

12 (1) implement subsection (e) building on, and
13 taking into account the effects of, previous oper-
14 ations in the 2014 and 2015 water years; and

15 (2) use the results of monitoring through early
16 warning surveys to make real-time operational deci-
17 sions under the applicable biological opinion.

18 (h) CALCULATION OF REVERSE FLOW IN OMR.—
19 Not later than 180 days after the date of enactment of
20 this Act, the Secretary, in consultation with the California
21 Department of Water Resources, consistent with the smelt
22 biological opinion and the salmonid biological opinion,
23 shall—

24 (1) review, including seeking public comment
25 regarding, whether any revision to the method used

1 to calculate reverse flow in the OMR for implemen-
2 tation of the reasonable and prudent alternatives in
3 the smelt biological opinion and the salmonid biologi-
4 cal opinion for the purpose of using the best avail-
5 able science and monitoring to maximize fish and
6 water supply benefits is warranted; and

7 (2) implement the revised method to calculate
8 reverse flow in the OMR pursuant to paragraph (1).

9 (i) **SUCCESSOR BIOLOGICAL OPINIONS.**—The Secre-
10 taries of the Interior and Commerce shall apply the provi-
11 sions of this Act to successor biological opinions to the
12 salmonid biological opinion and the smelt biological opin-
13 ion, to the extent that the Secretaries of the Interior and
14 Commerce determine to be consistent with—

15 (1) section 701(a)(3); and

16 (2) the Endangered Species Act of 1973 (16
17 U.S.C. 1531 et seq.) and the regulations imple-
18 menting that Act.

19 **SEC. 302. EMERGENCY OPERATIONS.**

20 (a) **WATER SUPPLIES.**—The Secretaries of the Inte-
21 rior and Commerce shall provide the maximum quantity
22 of water supplies practicable to Central Valley Project ag-
23 ricultural, municipal, and industrial contractors, water
24 service or repayment contractors, water rights settlement
25 contractors, exchange contractors, refuge contractors, and

1 State Water Project contractors, by approving, in accord-
2 ance with applicable Federal and State laws (including
3 regulations), operations or temporary projects to provide
4 additional water supplies as quickly as practicable, based
5 on available information, to address the emergency condi-
6 tions.

7 (b) ADMINISTRATION.—In carrying out subsection
8 (a), the Secretaries of the Interior and Commerce shall,
9 in accordance with applicable laws (including regula-
10 tions)—

11 (1)(A) in close coordination with the California
12 Department of Water Resources and the California
13 Department of Fish and Wildlife, implement a pilot
14 project to test and evaluate the ability to operate the
15 Delta cross-channel gates daily or as otherwise may
16 be appropriate to keep the gates open to the max-
17 imum extent practicable to protect out-migrating
18 salmonids, manage salinities in the interior Delta
19 and any other water quality issues, and maximize
20 Central Valley Project and State Water Project
21 pumping, subject to the condition that the pilot
22 project shall be designed and implemented consistent
23 with operational criteria and monitoring criteria re-
24 quired by the California State Water Resources Con-
25 trol Board, including its order, “Order Approving a

1 Temporary Urgency Change in License and Permit
2 Terms in Response to Drought Conditions”, effective
3 on January 31, 2014 (or a successor order); and

4 (B) design, implement, and evaluate those real-
5 time monitoring capabilities to enable effective real-
6 time operations of the cross-channel in order effi-
7 ciently to meet the objectives described in subpara-
8 graph (A);

9 (2) with respect to the operation of the Delta
10 cross-channel gates described in paragraph (1), col-
11 lect data on the impact of that operation on—

12 (A) species listed as threatened or endan-
13 gered under the Endangered Species Act of
14 1973 (16 U.S.C. 1531 et seq.);

15 (B) water quality; and

16 (C) water supply benefits;

17 (3) collaborate with the California Department
18 of Water Resources to install a deflection barrier at
19 Georgiana Slough and the Delta cross-channel gate
20 to protect migrating salmonids, consistent with
21 knowledge gained from related activities carried out
22 during 2014 and 2015;

23 (4) not later than May 15, 2016, submit to the
24 Committees on Energy and Natural Resources and
25 Environment and Public Works of the Senate and

1 the Committee on Natural Resources of the House
2 of Representatives a notice and explanation regard-
3 ing the extent to which the gates are able to remain
4 open pursuant to paragraphs (1) through (3);

5 (5) implement turbidity control strategies that
6 may allow for increased water deliveries while avoid-
7 ing jeopardy to adult Delta smelt due consistent
8 with the smelt biological opinion;

9 (6) adopt a 1:1 inflow-to-export ratio for the in-
10 crement of increased flow, as measured as a 3-day
11 running average at Vernalis during the period begin-
12 ning on April 1 and ending on May 31, that results
13 from the voluntary sale, transfer, or exchange, un-
14 less the Secretaries of the Interior and Commerce
15 determine in writing that the ratio will cause addi-
16 tional adverse effects on any salmonid listed fish
17 species beyond the range of effects anticipated to
18 occur to the listed fish species for the duration of
19 the salmonid biological opinion using the best sci-
20 entific and commercial data available and subject to
21 the condition that any individual sale, transfer, or
22 exchange using that ratio may only proceed if—

23 (A) the Secretary of the Interior deter-
24 mines that the environmental effects of the pro-
25 posed sale, transfer, or exchange are consistent

1 with effects permitted under applicable law (in-
2 cluding the Endangered Species Act (16 U.S.C.
3 1531 et seq.), the Federal Water Pollution Con-
4 trol Act (33 U.S.C. 1381 et seq.), and the Por-
5 ter-Cologne Water Quality Control Act (Calif-
6 ornia Water Code 13000 et seq.);

7 (B) Delta conditions are suitable to allow
8 movement of the acquired, transferred, or ex-
9 changed water through the Delta, in accordance
10 with existing Central Valley Project and State
11 Water Project permitted water rights and the
12 requirements of section 3405(a)(1)(H) of the
13 Central Valley Project Improvement Act (Public
14 Law 102–575; 106 Stat. 4711); and

15 (C) the voluntary sale, transfer, or ex-
16 change of water results in flow that is in addi-
17 tion to flow that otherwise would occur in the
18 absence of the voluntary sale, transfer, or ex-
19 change;

20 (7)(A) issue all necessary permit decisions
21 under the authority of the Secretaries of the Interior
22 and Commerce by not later than 60 days after the
23 date of receipt of a completed application by the
24 State of California to place and use temporary bar-
25 riers or operable gates in Delta channels to improve

1 water quantity and quality for State Water Project
2 and Central Valley Project south-of-Delta water con-
3 tractors and other water users, which barriers or
4 gates shall provide benefits for species protection
5 and in-Delta water user water quality, subject to the
6 condition that the barriers or gates shall be designed
7 so that, if practicable, formal consultations under
8 section 7 of the Endangered Species Act of 1973 (16
9 U.S.C. 1536) are not necessary; or

10 (B) take a longer period to issue the permit de-
11 cisions described in subparagraph (A) only if the
12 Secretaries of the Interior and Commerce determine
13 in writing that an environmental impact statement is
14 needed for the proposal to comply with the National
15 Environmental Policy Act of 1969 (42 U.S.C. 4321
16 et seq.);

17 (8) allow and facilitate, consistent with existing
18 priorities, water transfers through the C.W. “Bill”
19 Jones Pumping Plant or the Harvey O. Banks
20 Pumping Plant during the period beginning on April
21 1 and ending on November 30, subject to the condi-
22 tion that the transfers—

23 (A) are consistent with applicable Federal
24 and State laws (including regulations), includ-
25 ing the California Environmental Quality Act

1 (California Public Resources Code 21000–
2 21177); and

3 (B) are consistent with the smelt biological
4 opinion and the salmonid biological opinion;

5 (9) require the Director and the Commis-
6 sioner—

7 (A)(i) to determine whether a written
8 transfer proposal is complete by not later than
9 30 days after the date of submission of the pro-
10 posal; and

11 (ii) if the proposal is determined to be in-
12 complete, to State with specificity what shall be
13 supplemented or revised to complete the pro-
14 posal; and

15 (B)(i) complete all requirements under the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) and the Endangered Spe-
18 cies Act of 1973 (16 U.S.C. 1531 et seq.) nec-
19 essary to make final permit decisions on water
20 transfer requests in the State of California
21 by—

22 (I) not later than 30 days after deem-
23 ing the application complete pursuant to
24 subparagraph (A); or

1 (II) such later date as the Director or
2 the Commissioner determines to be nec-
3 essary, only if the Director or the Commis-
4 sioner determines in writing that an envi-
5 ronmental impact statement is needed for
6 the proposal to comply with the National
7 Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.); and

9 (ii) approve any water transfer request de-
10 scribed in clause (i) to maximize the quantity of
11 water supplies, subject to the condition that ac-
12 tions associated with the water transfer comply
13 with applicable Federal and State laws (includ-
14 ing regulations) and are consistent with—

15 (I) existing permitted water rights;

16 and

17 (II) the requirements of section
18 3405(a)(1)(H) of the Central Valley
19 Project Improvement Act (Public Law
20 102–575; 106 Stat. 4711);

21 (10) in coordination with the Secretary of Agri-
22 culture, enter into an agreement with the National
23 Academy of Sciences to conduct a comprehensive
24 study, to be completed not later than 1 year after
25 the date of enactment of this Act, on the effective-

1 ness and environmental impacts of saltcedar biological
2 cal control efforts on increasing water supplies and
3 improving riparian habitats of the Colorado River
4 and its principal tributaries, in the State of Cali-
5 fornia and elsewhere;

6 (11) pursuant to the research and adaptive
7 management provisions of the smelt biological opin-
8 ion and the salmonid biological opinion—

9 (A) use all available scientific tools to iden-
10 tify any changes to real-time operations of Bu-
11 reau of Reclamation, State of California, or
12 local water projects that could result in the
13 availability of additional water supplies; and

14 (B) determine whether alternative oper-
15 ational or other management measures would
16 meet applicable regulatory requirements for list-
17 ed species while maximizing water supplies and
18 water supply reliability; and

19 (12) continue to vary the averaging period of
20 the maximum percent of Delta Inflow Diverted
21 (Delta export-inflow ratio), to the extent consistent
22 with any applicable California Water Resources Con-
23 trol Board orders under decision D-1641 (which
24 sets water quality objectives for the San Francisco

1 Bay/Sacramento-San Joaquin Delta Estuary) to op-
2 erate—

3 (A) to a ratio using a 3-day averaging pe-
4 riod on the rising limb of a Delta inflow
5 hydrograph; and

6 (B) to a 14-day averaging period on the
7 falling limb of the Delta inflow hydrograph.

8 (c) OTHER AGENCIES.—To the extent that a Federal
9 department or agency other than the Department of the
10 Interior or the Department of Commerce has a role in ap-
11 proving a project described in subsection (a) or (b), this
12 section shall apply to the Federal department or agency.

13 (d) ACCELERATED PROJECT DECISION AND ELE-
14 VATION.—

15 (1) IN GENERAL.—On request of the Governor
16 of California, the Secretaries of the Interior and
17 Commerce shall use the expedited procedures under
18 this subsection to make final decisions relating to
19 Federal or federally approved projects or operational
20 changes proposed pursuant to subsections (a) and
21 (b) to provide additional water supplies or otherwise
22 address emergency drought conditions.

23 (2) REQUEST FOR RESOLUTION.—

24 (A) IN GENERAL.—On request of the Gov-
25 ernor of California, the Secretaries of the Inte-

1 rior and Commerce or the head of another Fed-
2 eral department or agency responsible for car-
3 rying out a review of a project, as applicable,
4 shall convene a final project decision meeting
5 with the heads of all relevant Federal agencies
6 to decide whether to approve a project to pro-
7 vide emergency water supplies or otherwise ad-
8 dress emergency drought conditions.

9 (B) MEETING.—A meeting under subpara-
10 graph (A) shall convene not later than 7 days
11 after the date of receipt of the meeting request.

12 (3) NOTIFICATION.—On receipt of a request for
13 a meeting under this subsection, the Secretary of the
14 Interior shall notify the heads of all relevant Federal
15 departments and agencies of the request, including
16 a description of—

17 (A) the project to be reviewed; and

18 (B) the date for the meeting.

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

23 (5) MEETING CONVENED BY SECRETARY.—The
24 Secretary of the Interior may convene a final project
25 decision meeting under this subsection at any time,

1 at the discretion of the Secretary, regardless of
2 whether a meeting is requested under paragraph (2).

3 (6) LIMITATION.—The expedited procedures
4 under this subsection apply only—

5 (A) to proposed new Federal projects or
6 operational changes pursuant to subsection (a)
7 or (b); and

8 (B) to the extent the procedures are con-
9 sistent with applicable laws (including regula-
10 tions).

11 (e) DROUGHT PLAN.—For any year during which
12 this section is in effect, the Secretaries of the Interior and
13 Commerce, in consultation with appropriate State offi-
14 cials, shall develop a drought operations plan that is con-
15 sistent with this Act and other applicable Federal and
16 State laws, including provisions intended to provide addi-
17 tional water supplies that could be of assistance during
18 the drought in existence on the date of enactment of this
19 Act.

20 **SEC. 303. TEMPORARY OPERATIONAL FLEXIBILITY TO CAP-**
21 **TURE PEAK FLOWS FROM WINTER STORMS.**

22 (a) ENVIRONMENTAL PROTECTION MANDATE.—The
23 Secretaries of the Interior and Commerce shall take no
24 action pursuant to this Act that would cause additional
25 adverse effects on the listed fish species beyond the range

1 of effects anticipated to occur to the listed fish species for
2 the duration of the applicable biological opinion, using the
3 best scientific and commercial data available.

4 (b) REAL-TIME MANAGEMENT TO ACHIEVE MUL-
5 TIPLE GOALS.—Pursuant to the adaptive management
6 provisions of the smelt biological opinion and the salmonid
7 biological opinion, the Secretaries of the Interior and Com-
8 merce shall monitor in real time to determine the location
9 and densities of listed fish species relative to the pumps
10 and Delta conditions, in order to identify—

11 (1) opportunities to increase water pumping
12 without violating the standard in subsection (a) or
13 other environmental laws and regulations; and

14 (2) circumstances where it is necessary to de-
15 crease water pumping to protect listed fish species.

16 (c) REQUIREMENT.—When consistent with the envi-
17 ronmental protection mandate in subsection (a) and other
18 environmental protections under subsection (f), the Secre-
19 taries of the Interior and Commerce, through the drought
20 contingency plans, shall evaluate and may authorize the
21 Central Valley Project and the State Water Project, com-
22 bined, to operate at levels that result in daily average
23 OMR flows more negative than -5,000 cubic feet per sec-
24 ond (based on United States Geological Survey gauges on

1 OMR) to capture peak flows during storm-related events,
2 in accordance with subsections (d), (e), and (f).

3 (d) FACTORS TO BE CONSIDERED.—In determining
4 additional adverse effects on any listed fish species beyond
5 the range of effects anticipated to occur to the listed fish
6 species for the duration of the smelt biological opinion or
7 salmonid biological opinion, using the best scientific and
8 commercial data available, the Secretaries of the Interior
9 and Commerce may consider the following factors:

10 (1) The real-time distribution of listed species.

11 (2) Relevant physical parameters including pro-
12 jected inflows, turbidity, salinities, and tidal cycles.

13 (3) Any other factor under the relevant biologi-
14 cal opinion.

15 (e) OTHER ENVIRONMENTAL PROTECTIONS.—

16 (1) STATE LAW.—The actions of the Secre-
17 taries of the Interior and Commerce pursuant to this
18 section shall be consistent with applicable regulatory
19 requirements under State law.

20 (2) FIRST SEDIMENT FLUSH.—During the first
21 flush of sediment out of the Delta during each water
22 year, based on objective evidence and notwith-
23 standing the other provisions of this subsection, the
24 Secretary of the Interior shall manage OMR flow
25 pursuant to the portion of the smelt biological opin-

1 ion that protects adult Delta smelt from the first
2 flush if required to do so by the smelt biological
3 opinion.

4 (3) APPLICABILITY.—

5 (A) IN GENERAL.—This section on cap-
6 turing peak flows from winter storms shall not
7 affect the application of the salmonid biological
8 opinion during the period beginning on April 1
9 and ending on May 31, unless the Secretary of
10 Commerce determines that this section can be
11 applied during part or all of that time period to
12 provide emergency water supply relief without
13 resulting in additional adverse effects beyond
14 those anticipated to occur for the duration the
15 salmonid biological opinion.

16 (B) THROUGH-DELTA WATER TRANS-
17 FERS.—In addition to any other actions to ben-
18 efit water supply, the Secretaries of the Interior
19 and Commerce shall consider allowing through-
20 Delta water transfers to occur during the pe-
21 riod referred to in subparagraph (A), in accord-
22 ance with section 302(b)(8).

23 (4) MONITORING.—In implementing this sec-
24 tion, the Commissioner, in coordination with the Di-
25 rector, the Assistant Administrator, and the Cali-

1 fornia Department of Fish and Wildlife, shall carry
2 out a monitoring program and other data gathering
3 activities—

4 (A) to ensure incidental take levels are not
5 exceeded; and

6 (B) to identify potential negative impacts,
7 if any.

8 (f) EFFECT OF HIGH OUTFLOWS.—When exercising
9 their authorities pursuant to drought contingency plans
10 to capture peak flows pursuant to subsection (c), the Sec-
11 retaries of the Interior and Commerce shall not count any
12 day during that period toward the 5-day or 14-day run-
13 ning averages of tidally filtered daily OMR flow require-
14 ments under the smelt biological opinion or the salmonid
15 biological opinion unless doing so is required to avoid addi-
16 tional adverse effects on listed fish species beyond the
17 range of effects anticipated to occur to the listed fish spe-
18 cies for the duration of the biological opinions, using the
19 best scientific and commercial data available.

20 **SEC. 304. EMERGENCY ENVIRONMENTAL REVIEWS.**

21 To minimize the time spent carrying out environ-
22 mental reviews and quickly to deliver water that is needed
23 to address emergency drought conditions in the State of
24 California, the head of each applicable Federal department
25 or agency shall, in carrying out this title, consult with the

1 Council on Environmental Quality in accordance with sec-
2 tion 1506.11 of title 40, Code of Federal Regulations (or
3 successor regulations), to develop alternative arrange-
4 ments to comply with the National Environmental Policy
5 Act of 1969 (42 U.S.C. 4321 et seq.) during the emer-
6 gency. The Council on Environmental Quality shall exer-
7 cise its authority in a timely manner and with an outcome
8 consistent with the need to address the emergency drought
9 conditions in the State of California.

10 **SEC. 305. LEVEL OF DETAIL REQUIRED FOR ANALYSIS.**

11 In articulating the determinations and demonstra-
12 tions required under this title and title I, the Secretaries
13 of the Interior and Commerce shall—

14 (1) fully satisfy the requirements of this title
15 addressing both supporting and countervailing evi-
16 dence using such quantity of written supporting de-
17 tail as is reasonable within the timeframe permitted
18 for timely decisionmaking in response to changing
19 conditions in the Delta; and

20 (2) make the decision document available on a
21 publicly accessible Internet website.

22 **TITLE IV—WATER RIGHTS**

23 **SEC. 401. OFFSET FOR STATE WATER PROJECT.**

24 (a) IMPLEMENTATION IMPACTS.—The Secretary of
25 the Interior shall confer with the California Department

1 of Fish and Wildlife in connection with the implementa-
2 tion of this Act regarding potential impacts to any consist-
3 ency determination for operations of the State Water
4 Project issued pursuant to section 2080.1 of the California
5 Fish and Game Code.

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

9 (1) determines that operations of the State
10 Water Project are inconsistent with the consistency
11 determinations issued pursuant to California Fish
12 and Game Code section 2080.1 for operations of the
13 State Water Project; or

14 (2) requires take authorization under California
15 Fish and Game Code section 2081 for operation of
16 the State Water Project,

17 in a manner that directly or indirectly results in reduced
18 water supply to the State Water Project as compared with
19 the water supply available under the smelt biological opin-
20 ion and the salmonid biological opinion, and as a result,
21 Central Valley Project yield is greater than it otherwise
22 would have been, then that additional yield shall be made
23 available to the State Water Project for delivery to State
24 Water Project contractors to offset the reduced water sup-
25 ply, provided that if it is necessary to reduce water sup-

1 plies for any Central Valley Project authorized uses or
2 contractors to make available to the State Water Project
3 that additional yield, such reductions shall be applied pro-
4 portionately to those uses or contractors that benefit from
5 that increased yield.

6 (c) NOTIFICATION RELATED TO ENVIRONMENTAL
7 PROTECTIONS.—The Secretaries of the Interior and Com-
8 merce shall—

9 (1) notify the Director of the California Depart-
10 ment of Fish and Wildlife regarding any changes in
11 the manner in which the smelt biological opinion or
12 the salmonid biological opinion is implemented; and

13 (2) confirm that those changes are consistent
14 with the Endangered Species Act of 1973 (16
15 U.S.C. 1531 et seq.).

16 (d) SAVINGS.—Nothing in this section shall have any
17 effect on the application of the California Endangered
18 Species Act (California Fish and Game Code sections
19 2050 through 2116).

20 **SEC. 402. AREA OF ORIGIN AND WATER RIGHTS PROTEC-**
21 **TIONS.**

22 (a) IN GENERAL.—In carrying out this Act, the Sec-
23 retaries of the Interior and Commerce shall not take any
24 action that—

1 (1) diminishes, impairs, or otherwise affects in
2 any manner any area of origin, watershed of origin,
3 county of origin, or any other water rights protec-
4 tion, including rights to water appropriated before
5 December 19, 1914, provided under California law;

6 (2) limits, expands, or otherwise affects the ap-
7 plication of section 10505, 10505.5, 11128, 11460,
8 11461, 11462, 11463, or 12200 through 12220 of
9 the California Water Code or any other provision of
10 California water rights law, without respect to
11 whether such a provision is specifically referred to in
12 this Act; or

13 (3) diminishes, impairs, or otherwise affects in
14 any manner any water rights or water rights prior-
15 ities under applicable law.

16 (b) EFFECT OF ACT.—Nothing in this Act—

17 (1) affects or modifies any obligation of the
18 Secretary of the Interior under section 8 of the Act
19 of June 17, 1902 (32 Stat. 390, chapter 1093); or

20 (2) diminishes, impairs, or otherwise affects in
21 any manner any project purposes or priorities for
22 the allocation, delivery, or use of water under appli-
23 cable law, including the project purposes and prior-
24 ities established under sections 3402 and section

1 3406 of the Central Valley Project Improvement Act
2 (Public Law 102–575; 106 Stat. 4706).

3 **SEC. 403. NO REDIRECTED ADVERSE IMPACTS.**

4 (a) APPLICABILITY.—

5 (1) IN GENERAL.—The Secretaries of the Inte-
6 rior and Commerce shall not carry out any specific
7 action pursuant to this Act that will directly or,
8 through State agency action, indirectly result in the
9 involuntary reduction of water supply to an indi-
10 vidual, district, or agency that has in effect a con-
11 tract for water with the State Water Project or the
12 Central Valley Project, including settlement and ex-
13 change contracts, operating contracts, refuge con-
14 tracts, and Friant Division contracts, as compared
15 to the water supply that would be provided in the
16 absence of action under this Act.

17 (2) EFFECT OF ACT.—Nothing in this Act
18 modifies, amends, or affects any right or obligation
19 of any party to a contract described in paragraph
20 (1).

21 (b) ACTION ON DETERMINATION.—If, after exploring
22 all options, the Secretary makes a final determination that
23 a proposed action under this Act cannot be carried out
24 in accordance with subsection (a), the Secretary—

1 (1) shall document that determination in writ-
2 ing with regard to that action, including a statement
3 of the facts relied on, and an explanation of the
4 basis, for the decision; and

5 (2) is subject to applicable law, including the
6 Endangered Species Act of 1973 (16 U.S.C. 1531 et
7 seq.).

8 **SEC. 404. ALLOCATIONS FOR SACRAMENTO VALLEY WATER**
9 **SERVICE CONTRACTORS.**

10 (a) DEFINITIONS.—In this section:

11 (1) EXISTING CENTRAL VALLEY PROJECT AGRICULTURAL WATER SERVICE CONTRACTOR WITHIN SACRAMENTO RIVER WATERSHED.—The term “existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed” means any water service contractor within the Shasta, Trinity, or Sacramento River Division of the Central Valley Project that has in effect a water service contract on the date of enactment of this Act that provides water for irrigation.

21 (2) YEAR TERMS.—The terms “Above Normal”,
22 “Below Normal”, “Dry”, and “Wet”, with respect to
23 a year, have the meanings given those terms in the
24 Sacramento Valley Water Year Type (40–30–30)
25 Index.

1 (b) ALLOCATIONS OF WATER.—

2 (1) ALLOCATIONS.—Subject to subsection (c),
3 the Secretary of the Interior shall make every rea-
4 sonable effort in the operation of the Central Valley
5 Project to allocate water provided for irrigation pur-
6 poses to each existing Central Valley Project agricul-
7 tural water service contractor within the Sacramento
8 River Watershed in accordance with the following:

9 (A) Not less than 100 percent of the con-
10 tract quantity shall be allocated to the Central
11 Valley Project agricultural water service con-
12 tractor within the Sacramento River Watershed
13 in a Wet year.

14 (B) Not less than 100 percent of the con-
15 tract quantity shall be allocated to the Central
16 Valley Project agricultural water service con-
17 tractor within the Sacramento River Watershed
18 in an Above Normal year.

19 (C) Not less than 100 percent of the con-
20 tract quantity shall be allocated to the Central
21 Valley Project agricultural water service con-
22 tractor within the Sacramento River Watershed
23 in a Below Normal year that is preceded by an
24 Above Normal or Wet year.

1 (D) Not less than 50 percent of the con-
2 tract quantity shall be allocated to the existing
3 Central Valley Project agricultural water service
4 contractor within the Sacramento River Water-
5 shed in a Dry year that is preceded by a Below
6 Normal, Above Normal, or Wet year.

7 (E) Subject to paragraph (2), in any other
8 year not identified in any of subparagraphs (A)
9 through (D), the Secretary shall allocate not
10 less than twice the allocation percentage to
11 south-of-Delta Central Valley Project agricul-
12 tural water service contractors, up to 100 per-
13 cent.

14 (2) EFFECT OF SUBPARAGRAPH.—In the event
15 of anomalous circumstances, nothing in paragraph
16 (1)(E) precludes an allocation to an existing Central
17 Valley Project agricultural water service contractor
18 within the Sacramento River Watershed that is
19 greater than twice the allocation percentage to a
20 south-of-Delta Central Valley Project agricultural
21 water service contractor.

22 (c) PROTECTION OF ENVIRONMENT, MUNICIPAL,
23 AND INDUSTRIAL SUPPLIES AND OTHER CONTRAC-
24 TORS.—

1 (1) ENVIRONMENT.—Nothing in subsection (b)
2 shall adversely affect any protections for the envi-
3 ronment, including—

4 (A) the cold water pool behind Shasta
5 Dam or any other Central Valley Project res-
6 ervoir;

7 (B) the obligation of the Secretary of the
8 Interior to make water available to managed
9 wetlands pursuant to section 3406(d) of the
10 Central Valley Project Improvement Act (Public
11 Law 102–575; 106 Stat. 4722); or

12 (C) any obligation—

13 (i) of the Secretaries of the Interior
14 and Commerce under the smelt biological
15 opinion, the salmonid biological opinion, or
16 any other applicable biological opinion; or

17 (ii) under the Endangered Species Act
18 of 1973 (16 U.S.C. 1531 et seq.), the Cen-
19 tral Valley Project Improvement Act (Pub-
20 lic Law 102–575; 106 Stat. 4706), or any
21 other applicable State or Federal law (in-
22 cluding regulations).

23 (2) MUNICIPAL AND INDUSTRIAL SUPPLIES.—

24 Nothing in subsection (b) shall—

1 (A) modify any provision of a water service
2 contract that addresses municipal or industrial
3 water shortage policies of the Secretaries of the
4 Interior and Commerce;

5 (B) affect or limit the authority of the Sec-
6 retaries of the Interior and Commerce—

7 (i) to adopt or modify municipal and
8 industrial water shortage policies; or

9 (ii) to implement a municipal or in-
10 dustrial water shortage policy;

11 (C) constrain, govern, or affect, directly or
12 indirectly, the operations of the American River
13 Division of the Central Valley Project or any
14 deliveries from that Division or a unit or facility
15 of that Division; or

16 (D) affect any allocation to a Central Val-
17 ley Project municipal or industrial water service
18 contractor by increasing or decreasing alloca-
19 tions to the contractor, as compared to the allo-
20 cation the contractor would have received ab-
21 sent subsection (b).

22 (3) OTHER CONTRACTORS.—Nothing in sub-
23 section (b) shall—

24 (A) affect the priority of any individual or
25 entity with a Sacramento River settlement con-

1 tract over water service or repayment contrac-
2 tors;

3 (B) affect the obligation of the United
4 States to make a substitute supply of water
5 available to the San Joaquin River exchange
6 contractors;

7 (C) result in the involuntary reduction in
8 water allocations to refuge contractors;

9 (D) affect the allocation of water to Friant
10 Division contractors of the Central Valley
11 Project;

12 (E) result in the involuntary reduction in
13 contract water allocations to individuals or enti-
14 ties with contracts to receive water from the
15 Friant Division; or

16 (F) authorize any actions inconsistent with
17 State water rights law.

18 **TITLE V—MISCELLANEOUS**
19 **PROVISIONS**

20 **SEC. 501. AUTHORIZED SERVICE AREA.**

21 (a) IN GENERAL.—The service area of the Central
22 Valley Project, as authorized by the Central Valley Project
23 Improvement Act (Public Law 102–575; 106 Stat. 4706),
24 shall include the area within the boundaries of the

1 Kettleman City Community Services District of California,
2 as in existence on the date of enactment of this Act.

3 (b) LONG-TERM CONTRACT.—

4 (1) IN GENERAL.—Notwithstanding the Central
5 Valley Project Improvement Act (Public Law 102–
6 575; 106 Stat. 4706) and subject to paragraph (2),
7 the Secretary of the Interior, in accordance with the
8 reclamation laws, shall enter into a long-term con-
9 tract with the Kettleman City Community Services
10 District of California, under terms and conditions
11 mutually agreeable to the parties, for the delivery of
12 up to 900 acre-feet of Central Valley Project water
13 for municipal and industrial use.

14 (2) LIMITATION.—A Central Valley Project
15 water delivery under the contract entered into under
16 paragraph (1) shall be limited to the minimal quan-
17 tity necessary to meet the immediate needs of the
18 Kettleman City Community Services District, in the
19 event that local supplies or State Water Project allo-
20 cations are insufficient to meet those needs.

21 (c) PERMIT.—The Secretary shall apply to the State
22 of California for a permit for a joint place of use for water
23 deliveries under the contract entered into under subsection
24 (b) with respect to the expanded service area under sub-
25 section (a), in accordance with State law.

1 (d) ADDITIONAL COSTS.—The applicable non-Fed-
2 eral entity shall pay the costs of any additional infrastruc-
3 ture, water treatment, or related costs are needed to carry
4 out this section.

5 **SEC. 502. OVERSIGHT OVER AND PUBLIC INPUT INTO RES-**
6 **TORATION FUND ACTIVITIES.**

7 Section 3407 of the Central Valley Project Improve-
8 ment Act (Public Law 102–575; 106 Stat. 4726) is
9 amended by striking subsection (f) and inserting the fol-
10 lowing:

11 “(f) RESTORATION FUND FINANCIAL REPORTS.—

12 “(1) TRANSPARENCY IN EXPENDITURES.—For
13 the effective period of the California Emergency
14 Drought Relief Act, the Secretary shall make avail-
15 able, on a publicly accessible Internet website, a re-
16 port describing a detailed work plan for the expendi-
17 ture of all amounts deposited in the Restoration
18 Fund during the preceding fiscal year, including—

19 “(A) a description of all receipts to, and
20 uses of, funds deposited in the Restoration
21 Fund and the Restoration Account during the
22 preceding fiscal year;

23 “(B) a projection of the expected receipts
24 to the Restoration Fund and Restoration Ac-
25 count for the following fiscal year; and

1 “(C) an analysis of the effectiveness of
2 each expenditure included in the report covering
3 the preceding fiscal year.

4 “(2) PUBLIC PARTICIPATION FOR PLANNED EX-
5 PENDITURES.—

6 “(A) IN GENERAL.—For each fiscal year,
7 the Secretary shall make available on a publicly
8 accessible Internet website a proposed draft
9 work plan for the following fiscal year regarding
10 priorities and spending levels for projects and
11 programs to be carried out under this title.

12 “(B) PUBLIC COMMENT.—The draft work
13 plan under this paragraph shall be made avail-
14 able for public comment for a period not less
15 than 30 days.”.

16 **SEC. 503. BASIN STUDIES.**

17 (a) IN GENERAL.—The Secretary of the Interior
18 shall—

19 (1) expand opportunities and expedite comple-
20 tion of assessments under the Secure Water Act
21 (section 9503(b) of Public Law 111–11 (42 U.S.C.
22 10363(b)), together with non-Federal partners, of
23 individual sub-basins and watersheds within major
24 Reclamation river basins; and

1 (2) ensure prompt decisionmaking regarding,
2 and expedited implementation of, adaptation and
3 mitigation strategies developed through the special
4 study process.

5 (b) CONTRIBUTED FUNDS.—The Secretary may ac-
6 cept and use contributions of funds from the non-Federal
7 partners to carry out activities under the special studies
8 consistent with the administration of basin studies pro-
9 gram criteria.

10 **SEC. 504. TECHNICAL AND MODELING ASSISTANCE.**

11 (a) IN GENERAL.—The Secretaries of the Interior
12 and Commerce may provide technical and modeling assist-
13 ance on request to the State Water Resources Control
14 Board during the drought emergency in effect on the date
15 of enactment of this Act.

16 (b) DATA AVAILABILITY.—The Secretaries of the In-
17 terior and Commerce shall make publicly available on re-
18 quest any modeling and data provided under subsection
19 (a).

20 **SEC. 505. REPORT ON RESULTS OF WATER USAGE.**

21 The Secretary of the Interior, in consultation with the
22 Secretary of Commerce and the Secretary of Natural Re-
23 sources of the State of California, shall publish an annual
24 report describing, with respect to the period covered by
25 the report—

1 (1) instream flow releases from the Central Val-
2 ley Project and State Water Project;

3 (2) the explicit purpose and authority of those
4 releases; and

5 (3) all measured environmental benefits as a re-
6 sult of the releases.

7 **SEC. 506. ADDITIONAL STORAGE AT NEW MELONES.**

8 (a) COORDINATION.—The Commissioner shall coordi-
9 nate with local water and irrigation districts in the
10 Stanislaus River Basin to identify the quantity of water
11 storage made available by the draft plan of operations in
12 New Melones Reservoir (referred to in this section as the
13 “draft plan”) for—

14 (1) water conservation programs;

15 (2) conjunctive use projects;

16 (3) water transfers;

17 (4) rescheduled project water; and

18 (5) other projects to maximize water storage
19 and ensure the beneficial use of the water resources
20 in the Stanislaus River Basin.

21 (b) REQUIREMENT.—The programs and projects de-
22 scribed in subsection (a) shall be implemented in accord-
23 ance with applicable laws (including regulations).

24 (c) SOURCE OF WATER.—The source of water for any
25 storage program carried out under this section at New

1 Melones Reservoir shall be made available under a valid
2 water right, in accordance with—

3 (1) the water transfer guidelines of the State of
4 California; and

5 (2) any other applicable State water law.

6 (d) REPORT.—Not later than 18 months after the
7 date of identification of the quantity of storage made
8 available under the draft plan that has been allocated
9 under this section, the Commissioner shall submit to Con-
10 gress a report describing the implementation of this sec-
11 tion, including proposals received by the Commissioner
12 from interested parties for purposes of this section.

13 **SEC. 507. CONTRACTING AUTHORITIES.**

14 (a) DELTA RESEARCH STATION LEASES.—Notwith-
15 standing section 585 of title 40, United States Code, the
16 Secretaries of the Interior and Commerce may enter di-
17 rectly into any lease of real property for the Delta Re-
18 search Station.

19 (b) COLLABORATIVE PROCESSES.—Notwithstanding
20 the Federal Advisory Committee Act (5 U.S.C. App.) and
21 applicable Federal acquisitions and contracting authori-
22 ties, the Secretaries of the Interior and Commerce may
23 use the collaborative processes under the Collaborative
24 Science Adaptive Management Program to enter into con-

1 tracts with specific individuals or organizations directly or
2 in conjunction with appropriate State agencies.

3 **SEC. 508. VOLUNTARY OPEN WATER DATA SYSTEM.**

4 (a) DEFINITIONS.—In this section:

5 (1) EDUCATIONAL INSTITUTION.—The term
6 “educational institution” means—

7 (A) a public or private elementary or sec-
8 ondary school;

9 (B) an institution of vocational, profes-
10 sional, or higher education (including a junior
11 college or teachers’ college); and

12 (C) an association of schools or institutions
13 described in subparagraphs (A) and (B).

14 (2) INDIAN TRIBE.—The term “Indian tribe”
15 has the meaning given that term in section 4 of the
16 Indian Self-Determination and Education Assistance
17 Act (25 U.S.C. 450b).

18 (3) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior, acting through the Di-
20 rector of the United States Geological Survey.

21 (4) STATE.—The term “State” means—

22 (A) a State;

23 (B) the District of Columbia;

24 (C) the Commonwealth of Puerto Rico;

25 and

1 (D) any other territory or possession of the
2 United States.

3 (5) SYSTEM.—The term “system” means the
4 open water data system established under subsection
5 (b).

6 (b) SYSTEM.—The Secretary shall establish and
7 maintain an open water data system within the United
8 States Geological Survey to advance the availability, time-
9 ly distribution, and widespread use of water data and in-
10 formation for water management, education, research, as-
11 sessment, and monitoring purposes.

12 (c) PURPOSES.—The purposes of the system are—

13 (1) to promote the voluntary sharing of water
14 data and information among State, local, and tribal
15 governments, communities, educational institutions,
16 and the private sector;

17 (2) to advance the quantification of the avail-
18 ability, use of, and risks to, water resources through-
19 out the United States;

20 (3) to increase accessibility to, and expand the
21 use of, water data and information in a standard,
22 easy-to-use format by Federal, State, local, and trib-
23 al governments, communities, educational institu-
24 tions, and the private sector; and

1 (4) to facilitate the open exchange of water in-
2 formation particularly in the face of climate change
3 and unprecedented drought.

4 (d) ACTIVITIES.—

5 (1) IN GENERAL.—In carrying out this section,
6 the Secretary shall coordinate with the National
7 Oceanic and Atmospheric Administration—

8 (A) to integrate water data and informa-
9 tion into an interoperable, national, geospatially
10 referenced water data framework;

11 (B) identify new water data and informa-
12 tion needs, including data on surface and
13 groundwater quality and quantity, contami-
14 nated aquifers, sediment, erosion, transport,
15 water chemistry, brackish water, precipitation,
16 reservoir storage, water cycle, landscape vari-
17 ables, hydrography, climate and weather im-
18 pacts, soil moisture, and human use;

19 (C) to leverage existing shared databases,
20 infrastructure, and tools to provide a platform
21 for water data and information innovation,
22 modeling and data sharing, and solution devel-
23 opment; and

24 (D) to support water data and information
25 sharing, applied research, and educational pro-

1 (A) to identify Bureau of Reclamation
2 projects and programs that are no longer fea-
3 sible due to—

4 (i) a lack of local support;

5 (ii) a lack of available Federal or non-
6 Federal resources; or

7 (iii) an authorized purpose that is no
8 longer relevant or feasible;

9 (B) to establish an efficient and trans-
10 parent process for deauthorizing Reclamation
11 projects and programs that have failed to re-
12 ceive a minimum level of investment to ensure
13 active projects can move forward while reducing
14 the backlog of authorized projects;

15 (C) to create an expedited and definitive
16 process to deauthorize Reclamation projects and
17 programs;

18 (D) to allow the continued authorization of
19 programs and projects that are feasible; and

20 (E) to establish a process for identifying
21 authorized Reclamation projects and programs
22 that are no longer—

23 (i) in the Federal interest; or

24 (ii) feasible.

25 (2) DEFINITIONS.—In this section:

1 (A) RECLAMATION PROJECT OR PRO-
2 GRAM.—The term “Reclamation project or pro-
3 gram” includes any project or program that is
4 administered by the Bureau of Reclamation.

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

7 (b) COMPREHENSIVE REPORTS.—

8 (1) MINIMUM FUNDING LIST.—Not later than
9 180 days after the date of enactment of this Act, the
10 Secretary shall submit to the Committee on Energy
11 and Natural Resources of the Senate and the Com-
12 mittee on Natural Resources of the House of Rep-
13 resentatives, and make available on a publicly acces-
14 sible Internet website in a manner that is
15 downloadable, searchable, and sortable, a list of—

16 (A) Reclamation programs authorized, and
17 for which funding was obligated, during the
18 current fiscal year or any of the preceding 5 fis-
19 cal years; and

20 (B)(i) Reclamation projects or separable
21 elements of projects authorized for construction
22 for which funding has been obligated during the
23 current fiscal year or any of the 5 preceding fis-
24 cal years;

1 (ii) the amount of funding obligated for
2 each such project or separable element per fis-
3 cal year;

4 (iii) the current phase of each such project
5 or separable element; and

6 (iv) the amount required to complete the
7 current phase of each such project or separable
8 element.

9 (2) BACKLOG REPORT.—Together with the re-
10 port under paragraph (1), the Secretary shall submit
11 to the Committee on Energy and Natural Resources
12 of the Senate and the Committee on Natural Re-
13 sources of the House of Representatives, and make
14 available on a publicly accessible Internet website in
15 a manner that is downloadable, searchable, and sort-
16 able, a list of—

17 (A) Reclamation programs that are author-
18 ized and for which funding was not obligated
19 during the current fiscal year or any of the pre-
20 ceding 5 fiscal years; and

21 (B)(i) projects or separable elements that
22 are authorized for construction but have not
23 been completed;

1 (ii) the date of authorization of the project
2 or separable element, including any subsequent
3 modifications to the original authorization;

4 (iii) the original budget authority for the
5 project or separable element;

6 (iv) a brief description of the project or
7 separable element;

8 (v) the estimated date of completion of the
9 project or separable element;

10 (vi) the estimated cost of completion of the
11 project or separable element; and

12 (vii) any amounts appropriated for the
13 project or separable element that remain unobli-
14 gated.

15 (c) INTERIM DEAUTHORIZATION LIST.—

16 (1) IN GENERAL.—The Secretary shall develop
17 an interim deauthorization list that identifies each
18 authorized Reclamation program or project, or sepa-
19 rable element of a Reclamation program or project,
20 for which Federal or non-Federal funds were not ob-
21 ligated for construction during—

22 (A) the applicable fiscal year; or

23 (B) any of the 5 preceding fiscal years.

24 (2) SPECIAL RULE FOR PROJECTS RECEIVING
25 FUNDS FOR POST-AUTHORIZATION STUDY.—A Rec-

1 lamation project or separable element of a Reclama-
2 tion project may not be identified on the interim de-
3 authorization list, or on the final deauthorization list
4 under subsection (d), if the Reclamation project or
5 separable element received funding for a post-au-
6 thorization study during—

7 (A) the applicable fiscal year; or

8 (B) any of the 5 preceding fiscal years.

9 (3) PUBLIC COMMENT AND CONSULTATION.—

10 (A) IN GENERAL.—The Secretary shall so-
11 licit comments from the public and the Gov-
12 ernors of each applicable State regarding the
13 interim deauthorization list developed under
14 paragraph (1).

15 (B) COMMENT PERIOD.—The public com-
16 ment period under subparagraph (A) shall be
17 90 days.

18 (4) SUBMISSION TO CONGRESS; PUBLICA-
19 TION.—Not later than 90 days after the date of sub-
20 mission of the list required under subsection (b), the
21 Secretary shall—

22 (A) submit the interim deauthorization list
23 to the Committee on Energy and Natural Re-
24 sources of the Senate and the Committee on

1 Natural Resources of the House of Representa-
2 tives; and

3 (B) publish the interim deauthorization list
4 in the Federal Register.

5 (d) FINAL DEAUTHORIZATION LIST.—

6 (1) IN GENERAL.—The Secretary shall develop
7 a final deauthorization list of each Reclamation pro-
8 gram or project, or separable element of a Reclama-
9 tion program or project, described in subsection
10 (c)(1) that is identified pursuant to this subsection.

11 (2) IDENTIFICATION OF PROJECTS.—

12 (A) SEQUENCING.—

13 (i) IN GENERAL.—The Secretary shall
14 identify Reclamation projects and sepa-
15 rable elements of Reclamation projects for
16 inclusion on the final deauthorization list
17 according to the order in which the Rec-
18 lamation projects and separable elements
19 were authorized, beginning with the ear-
20 liest-authorized Reclamation projects and
21 separable elements.

22 (ii) FACTORS FOR CONSIDERATION.—

23 The Secretary may identify a Reclamation
24 program, project, or separable element of a
25 Reclamation program or project for exclu-

1 sion from the final deauthorization list if
2 the Secretary determines, on a case-by-case
3 basis, that the Reclamation program,
4 project, or separable element is critical for
5 interests of the United States, based on
6 the possible impact of the Reclamation
7 program, project, or separable element
8 on—

- 9 (I) public health and safety;
10 (II) the national economy; or
11 (III) the environment.

12 (iii) CONSIDERATION OF PUBLIC COM-
13 MENTS.—In making a determination under
14 clause (i) or (ii), the Secretary shall take
15 into consideration any comments received
16 under subsection (c)(3).

17 (B) APPENDIX.—The Secretary shall in-
18 clude as part of the final deauthorization list an
19 appendix that—

- 20 (i) identifies each Reclamation pro-
21 gram, project, and separable element of a
22 Reclamation program or project on the in-
23 terim deauthorization list developed under
24 subsection (c) that is not included on the
25 final deauthorization list; and

1 (ii) describes the reasons why the Rec-
2 lamation program, project, or separable
3 element is not included.

4 (3) SUBMISSION TO CONGRESS; PUBLICA-
5 TION.—Not later than 120 days after the date of ex-
6 piration of the public comment period under sub-
7 section (c)(3), the Secretary shall—

8 (A) submit the final deauthorization list
9 and the appendix under paragraph (2)(B) to
10 the Committee on Energy and Natural Re-
11 sources of the Senate and the Committee on
12 Natural Resources of the House of Representa-
13 tives; and

14 (B) publish the final deauthorization list
15 and the appendix in the Federal Register.

16 (e) DEAUTHORIZATION; CONGRESSIONAL REVIEW.—

17 (1) IN GENERAL.—Subject to paragraph (2), ef-
18 fective beginning on the date that is 180 days after
19 the date of submission of the final deauthorization
20 list under subsection (d), a Reclamation program,
21 project, or separable element of a Reclamation pro-
22 gram or project included on the list is deauthorized,
23 unless Congress passes a joint resolution dis-
24 approving the final deauthorization report before
25 that date.

1 (b) DEFINITIONS.—In this section:

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

5 (2) CONSTRUCTION.—

6 (A) IN GENERAL.—The term “construc-
7 tion” means the designing, materials engineer-
8 ing and testing, surveying, and building of sur-
9 face water storage.

10 (B) INCLUSIONS.—The term “construc-
11 tion” includes—

12 (i) any addition to existing surface
13 water storage; and

14 (ii) construction of a new surface
15 water storage facility.

16 (C) EXCLUSIONS.—The term “construc-
17 tion” excludes any Federal statutory or regu-
18 latory obligation relating to any permit, review,
19 approval, or other similar requirement.

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

22 (4) SURFACE WATER STORAGE.—The term
23 “surface water storage” means storage at—

24 (A) any federally owned facility under the
25 jurisdiction of the Bureau of Reclamation; or

1 (B) any non-Federal facility used for the
2 surface storage and supply of water resources.

3 (5) TREASURY RATE.—The term “Treasury
4 rate” means the 20-year constant maturity treasury
5 rate published by the United States Treasury, as in
6 existence on the effective date of the applicable con-
7 tract.

8 (6) WATER USERS ASSOCIATION.—

9 (A) IN GENERAL.—The term “water users
10 association” means an entity organized and rec-
11 ognized under State law that is eligible to enter
12 into contracts with the Commissioner—

13 (i) to receive contract water for deliv-
14 ery to users of the water; and

15 (ii) to pay any applicable charges.

16 (B) INCLUSIONS.—The term “water users
17 association” includes—

18 (i) an association;

19 (ii) a conservatory district;

20 (iii) an irrigation district;

21 (iv) a municipality; and

22 (v) a water project contract unit.

23 (c) CONVERSION AND PREPAYMENT OF CON-
24 TRACTS.—

25 (1) CONVERSION.—

1 (A) IN GENERAL.—On receipt of a request
2 from a water users association, the Secretary
3 shall convert any water service contract in ef-
4 fect on the date of enactment of this Act be-
5 tween the United States and the water users
6 association to allow for prepayment of the re-
7 payment contract in accordance with this para-
8 graph under mutually agreeable terms and con-
9 ditions.

10 (B) MANNER.—The manner of conversion
11 under this paragraph shall be as follows:

12 (i) Water service contracts entered
13 under section 9(c)(2) of the Act of August
14 4, 1939 (53 Stat. 1194, chapter 418), to
15 be converted under this section shall be
16 converted to a contract under section
17 9(c)(1) of that Act (53 Stat. 1194, chapter
18 418).

19 (ii) Water service contracts entered
20 into under section 9(e) of the Act of Au-
21 gust 4, 1939 (53 Stat. 1196, chapter 418),
22 to be converted under this section shall be
23 converted to repayment contracts under
24 section 9(d) of that Act (53 Stat. 1195,
25 chapter 418).

1 (2) PREPAYMENT.—

2 (A) SECTION 9(c)(1).—Except for a repay-
3 ment contract under which the applicable water
4 users association has previously negotiated for
5 prepayment, each repayment contract under
6 section 9(c)(1) of the Act of August 4, 1939
7 (53 Stat. 1194, chapter 418) (including any
8 contract converted pursuant to paragraph
9 (1)(B)(i)), in effect on the date of enactment of
10 this Act shall, at the request of the water users
11 association—

12 (i) provide for the repayment in lump
13 sum of the remaining construction costs
14 identified in an applicable water project-
15 specific municipal or industrial rate repay-
16 ment schedule (as adjusted to reflect pay-
17 ment not reflected in the schedule) and
18 properly assignable for ultimate return by
19 the water users association, subject to the
20 condition that an estimate of the remain-
21 ing construction costs, as adjusted, shall be
22 provided by the Secretary to the water
23 users association by not later than 90 days
24 after the date of receipt of the request of
25 the water users association;

1 (ii) require that any construction costs
2 or other capitalized costs that were in-
3 curred after the effective date of the con-
4 tract, were not reflected in the rate sched-
5 ule referred to in clause (i), or were not
6 properly assignable to the water users as-
7 sociation, and were incurred as a result of
8 a collective annual allocation of capital
9 costs to the water users association elect-
10 ing contract conversion under this sub-
11 section, shall be repaid—

12 (I) for costs equal to less than
13 \$5,000,000, by not later than the date
14 that is 5 years after the date of notifi-
15 cation of the allocation; or

16 (II) for costs equal to \$5,000,000
17 or more, in accordance with applicable
18 reclamation laws; and

19 (iii) continue in effect for the period
20 during which the water users association
21 pays applicable charges in accordance with
22 section 9(c)(1) of the Act of August 4,
23 1939 (53 Stat. 1194, chapter 418), and
24 other applicable law.

1 (B) SECTION 9(d).—Except for a repay-
2 ment contract under which the applicable water
3 users association has previously negotiated for
4 prepayment, each repayment contract under
5 section 9(d) of the Act of August 4, 1939 (53
6 Stat. 1195, chapter 418) (including any con-
7 tract converted pursuant to paragraph
8 (1)(B)(ii)), in effect on the date of enactment
9 of this Act shall, at the request of the water
10 users association—

11 (i) provide for repayment of the re-
12 maining construction costs identified in an
13 applicable water project-specific irrigation
14 rate repayment schedule (as adjusted to
15 reflect payment not reflected in the sched-
16 ule) and properly assignable for ultimate
17 return by the water users association in
18 lump sum, by accelerated prepayment, or if
19 made in approximately equal installments,
20 by not later than 3 years after the effective
21 date of the repayment contract, subject to
22 the conditions that—

23 (I) the amount shall be dis-
24 counted by $\frac{1}{2}$ the Treasury rate; and

1 (II) the estimate of the remain-
2 ing construction costs, as adjusted,
3 shall be provided by the Secretary to
4 the water users association by not
5 later than 90 days after the date of
6 receipt of the request of the water
7 users association;

8 (ii) require that any construction costs
9 or other capitalized costs that were in-
10 curred after the effective date of the con-
11 tract, were not reflected in the rate sched-
12 ule referred to in clause (i), or were not
13 properly assignable to the water users as-
14 sociation, and were incurred as a result of
15 a collective annual allocation of capital
16 costs to the water users association elect-
17 ing contract conversion under this sub-
18 section, shall be repaid—

19 (I) for costs equal to less than
20 \$5,000,000, by not later than the date
21 that is 5 years after the date of notifi-
22 cation of the allocation; or

23 (II) for costs equal to \$5,000,000
24 or more, in accordance with applicable
25 reclamation laws;

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

5 (iv) continue in effect for the period
6 during which the water users association
7 pays applicable charges in accordance with
8 section 9(d) of the Act of August 4, 1939
9 (53 Stat. 1195, chapter 418), and other
10 applicable law.

11 (3) TREATMENT.—A contract entered into pur-
12 suant to this subsection—

13 (A) shall not be adjusted on the basis of
14 the type of prepayment financing used by the
15 applicable water users association;

16 (B) shall conform to any other applicable
17 agreement, such as a settlement agreement or
18 a new constructed appurtenant facility agree-
19 ment; and

20 (C) shall not modify any other—

21 (i) water service, repayment, ex-
22 change, or transfer contractual right be-
23 tween the water users association, and the
24 Bureau of Reclamation; or

1 (ii) right, obligation, or relationship of
2 the water users association and an applica-
3 ble landowner in accordance with State
4 law.

5 (d) ACCOUNTING.—

6 (1) ADJUSTMENT.—The amounts paid pursuant
7 to subsection (c) shall be subject to adjustment fol-
8 lowing a final cost allocation by the Secretary.

9 (2) DEFICIENCIES.—

10 (A) IN GENERAL.—If the final cost alloca-
11 tion under paragraph (1) indicates that the
12 costs properly assignable to a water users asso-
13 ciation are greater than the costs paid by the
14 water users association, the water users associa-
15 tion shall be obligated to pay to the Secretary
16 the remaining allocated costs under an addi-
17 tional repayment contract under subparagraph
18 (B).

19 (B) ADDITIONAL REPAYMENT CON-
20 TRACTS.—An additional repayment contract re-
21 quired by subparagraph (A) shall—

22 (i) have a term of—

23 (I) not less than 1 year; and

24 (II) not more than 10 years; and

1 (ii) include such mutually agreeable
2 provisions regarding the rate of repayment
3 of the deficient amount as may be devel-
4 oped by the parties.

5 (3) OVERPAYMENTS.—If the final cost alloca-
6 tion under paragraph (1) indicates that the costs
7 properly assignable to a water users association are
8 less than the costs paid by the water users associa-
9 tion, the Secretary shall credit the amount of the
10 overpayment as an offset against any outstanding or
11 future obligation of the water users association with
12 the exception of Restoration Fund charges pursuant
13 to section 3407(d) of Public Law 102-575.

14 (e) APPLICABILITY OF CERTAIN PROVISIONS.—

15 (1) EFFECT OF EXISTING LAW.—On compliance
16 by a water users association with, and discharge of
17 the obligation of repayment of the construction costs
18 pursuant to, a contract entered into under to sub-
19 section (c)(2)(B), subsections (a) and (b) of section
20 213 of the Reclamation Reform Act of 1982 (43
21 U.S.C. 390mm) shall apply to any affected land.

22 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
23 ligation of a water users association to repay any
24 construction costs or other capitalized cost described
25 in subparagraph (A)(ii) or (B)(ii) of subsection

1 (c)(2), or subsection (d), shall not, on repayment, af-
2 fect—

3 (A) the status of the water users associa-
4 tion as having repaid all of the construction
5 costs assignable to the water users association;
6 or

7 (B) the applicability of subsection (a) or
8 (b) of section 213 of the Reclamation Reform
9 Act of 1982 (43 U.S.C. 390mm).

10 (f) SURFACE WATER STORAGE ENHANCEMENT PRO-
11 GRAM.—

12 (1) ESTABLISHMENT OF ACCOUNT.—The Sec-
13 retary shall establish an account, to be known as the
14 “Reclamation Surface Storage Account”, consisting
15 of such amounts as are deposited in the Account
16 under paragraph (2), to fund the construction of
17 surface water storage.

18 (2) DEPOSITS.—Not later than 3 years after
19 the date of enactment of this Act, an amount equal
20 to 50 percent of receipts generated from the prepay-
21 ment of contracts under this section in excess of
22 amounts necessary to cover the amount of receipts
23 forgone from scheduled payments under applicable
24 law in effect on that date of enactment during the

1 10-year period beginning on that date of enactment
2 shall be deposited in the Account.

3 (3) USE.—

4 (A) COOPERATIVE AGREEMENTS.—The
5 Secretary may—

6 (i) enter into cooperative agreements
7 with water users associations for the con-
8 struction of surface water storage; and

9 (ii) use amounts in the Account to
10 fund construction under such a cooperative
11 agreement.

12 (B) TREATMENT.—A surface water stor-
13 age project that is otherwise not federally au-
14 thorized shall not be considered to be a Federal
15 facility as a result of the allocation of any
16 amount from the Account for any portion of the
17 project.

18 (4) REPAYMENT.—Any amount from the Ac-
19 count used for surface water storage construction
20 shall be fully reimbursed to the Account in accord-
21 ance with applicable requirements under the rec-
22 lamation laws, except that all funds reimbursed shall
23 be deposited in the Account.

1 (5) AVAILABILITY OF AMOUNTS.—The amounts
2 deposited in the Account under this subsection
3 shall—

4 (A) be made available for the storage
5 projects identified in section 402, subject to ap-
6 propriation; and

7 (B) be in addition to amounts appropriated
8 for those purposes under any other provision of
9 law.

10 (6) PURPOSES OF SURFACE WATER STORAGE.—

11 The construction of surface water storage under this
12 section shall be made available for the federally
13 owned and State-led storage projects pursued under
14 this Act, provided that funds are limited to the Fed-
15 eral cost-share (up to 25 percent for State-led
16 projects and up to 50 percent for federally owned
17 projects).

18 (g) EFFECT OF SECTION.—Nothing in this section—

19 (1) alters the repayment obligation of any water
20 service or repayment contractor receiving water from
21 a water project, or shifts any costs that would other-
22 wise have been properly assignable to a water users
23 association described in subsection (c) or another
24 contractor, absent this section, including operation
25 and maintenance costs, construction costs, or other

1 capitalized costs incurred after the date of enact-
2 ment of this Act;

3 (2) alters any specific requirement for the dis-
4 position of amounts received as repayments by the
5 Secretary under the reclamation laws; or

6 (3) except as expressly provided in this section,
7 alters any obligations under the Reclamation Law,
8 including the continuation of Restoration Fund
9 charges pursuant to section 3407(d) (Public Law
10 102–575), of the water service and repayment con-
11 tractors making prepayments pursuant to this sec-
12 tion.

13 **TITLE VII—DURATION AND EF-**
14 **FECT ON EXISTING OBLIGA-**
15 **TIONS**

16 **SEC. 701. SAVINGS CLAUSE.**

17 (a) IN GENERAL.—This Act shall not be interpreted
18 or implemented in a manner that—

19 (1) preempts or modifies any obligation of the
20 United States to act in conformance with applicable
21 State law, including applicable State water law;

22 (2) affects or modifies any obligation under the
23 Central Valley Project Improvement Act (Public
24 Law 102–575; 106 Stat. 4706), except for the pro-
25 cedural provisions relating to public input and sav-

1 ings provisions for the Stanislaus River predator
2 management program expressly established by sec-
3 tions 203 and 502; or

4 (3) overrides, modifies, or amends the applica-
5 bility of the Endangered Species Act of 1973 (16
6 U.S.C. 1531 et seq) or the application of the smelt
7 and salmonid biological opinions to the operation of
8 the Central Valley Project or the State Water
9 Project.

10 (b) SEVERABILITY.—If any provision of this Act, or
11 any application of such provision to any person or cir-
12 cumstance, is held to be inconsistent with any law or the
13 biological opinions, the remainder of this Act and the ap-
14 plication of this Act to any other person or circumstance
15 shall not be affected.

16 **SEC. 702. TERMINATION.**

17 All of title III (relating to California emergency
18 drought relief and operational flexibility), except for sub-
19 sections (a) through (d) of section 301, and title IV (relat-
20 ing to water rights) shall expire on the date that is the
21 later of—

22 (1) the date on which the Governor of the State
23 of California declares an end to the State drought
24 emergency; or

25 (2) September 30, 2017.