

DECEMBER 5, 2016

RULES COMMITTEE PRINT 114–69

TEXT OF HOUSE AMENDMENT TO S. 612, TO DESIGNATE THE FEDERAL BUILDING AND UNITED STATES COURTHOUSE LOCATED AT 1300 VICTORIA STREET IN LAREDO, TEXAS, AS THE “GEORGE P. KAZEN FEDERAL BUILDING AND UNITED STATES COURTHOUSE”

[Showing the text of the Water Infrastructure Improvements for the Nation (WIIN) Act]

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Water Infrastructure Improvements for the Nation Act”
4 or the “WIIN Act”.

5 (b) TABLE OF CONTENTS.—

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1 **TITLE I—WATER RESOURCES** 2 **DEVELOPMENT**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “Water Resources De-
5 velopment Act of 2016”.

6 **SEC. 1002. SECRETARY DEFINED.**

7 In this title, the term “Secretary” means the Sec-
8 retary of the Army.

9 **Subtitle A—General Provisions**

10 **SEC. 1101. YOUTH SERVICE AND CONSERVATION CORPS** 11 **ORGANIZATIONS.**

12 Section 213 of the Water Resources Development Act
13 of 2000 (33 U.S.C. 2339) is amended—

14 (1) by redesignating subsection (c) as sub-
15 section (d); and

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

3 “(c) YOUTH SERVICE AND CONSERVATION CORPS
4 ORGANIZATIONS.—The Secretary, to the maximum extent
5 practicable, shall enter into cooperative agreements with
6 qualified youth service and conservation corps organiza-
7 tions for services relating to projects under the jurisdiction
8 of the Secretary and shall do so in a manner that ensures
9 the maximum participation and opportunities for such or-
10 ganizations.”.

11 **SEC. 1102. NAVIGATION SAFETY.**

12 The Secretary shall use section 5 of the Act of March
13 4, 1915 (38 Stat. 1053, chapter 142; 33 U.S.C. 562), to
14 carry out navigation safety activities at those projects eli-
15 gible for operation and maintenance under section 204(f)
16 of the Water Resources Development Act of 1986 (33
17 U.S.C. 2232(f)).

18 **SEC. 1103. EMERGING HARBORS.**

19 Section 210 of the Water Resources Development Act
20 of 1986 (33 U.S.C. 2238) is amended—

21 (1) in subsection (c)(3) by striking “for each of
22 fiscal years 2015 through 2022” and inserting “for
23 each fiscal year”; and

24 (2) by striking subsection (d)(1)(A) and insert-
25 ing the following:

1 “(A) IN GENERAL.—For each fiscal year,
2 if priority funds are available, the Secretary
3 shall use at least 10 percent of such funds for
4 emerging harbor projects.”.

5 **SEC. 1104. FEDERAL BREAKWATERS AND JETTIES.**

6 (a) IN GENERAL.—The Secretary, at Federal ex-
7 pense, shall establish an inventory and conduct an assess-
8 ment of the general structural condition of all Federal
9 breakwaters and jetties protecting harbors and inland har-
10 bors within the United States.

11 (b) CONTENTS.—The inventory and assessment car-
12 ried out under subsection (a) shall include—

13 (1) compiling location information for all Fed-
14 eral breakwaters and jetties protecting harbors and
15 inland harbors within the United States;

16 (2) determining the general structural condition
17 of each breakwater and jetty;

18 (3) analyzing the potential risks to navigational
19 safety, and the impact on the periodic maintenance
20 dredging needs of protected harbors and inland har-
21 bors, resulting from the general structural condition
22 of each breakwater and jetty; and

23 (4) estimating the costs, for each breakwater
24 and jetty, to restore or maintain the breakwater or

1 jetty to authorized levels and the total of all such
2 costs.

3 (c) REPORT TO CONGRESS.—Not later than 1 year
4 after the date of enactment of this Act, the Secretary shall
5 submit to Congress a report on the results of the inventory
6 and assessment carried out under subsection (a).

7 **SEC. 1105. REMOTE AND SUBSISTENCE HARBORS.**

8 Section 2006 of the Water Resources Development
9 Act of 2007 (33 U.S.C. 2242) is amended—

10 (1) in subsection (a)(3) by inserting “in which
11 the project is located, or the long-term viability of a
12 community that is located in the region that is
13 served by the project and that will rely on the
14 project,” after “community”; and

15 (2) in subsection (b)—

16 (A) in paragraph (1) by inserting “and
17 communities that are located in the region to be
18 served by the project and that will rely on the
19 project” after “community”;

20 (B) in paragraph (4) by striking “local
21 population” and inserting “regional population
22 to be served by the project”; and

23 (C) in paragraph (5) by striking “commu-
24 nity” and inserting “local community and com-
25 munities that are located in the region to be

1 served by the project and that will rely on the
2 project”.

3 **SEC. 1106. ALTERNATIVE PROJECTS TO MAINTENANCE**
4 **DREDGING.**

5 The Secretary may enter into agreements to assume
6 the operation and maintenance costs of an alternative
7 project to maintenance dredging for a Federal navigation
8 channel if the costs of the operation and maintenance of
9 the alternative project, and any remaining costs necessary
10 for maintaining the Federal navigation channel, are less
11 than the costs of maintaining such channel without the
12 alternative project.

13 **SEC. 1107. GREAT LAKES NAVIGATION SYSTEM.**

14 Section 210(d)(1)(B) of the Water Resources Devel-
15 opment Act of 1986 (33 U.S.C. 2238(d)(1)(B)) is amend-
16 ed in the matter preceding clause (i) by striking “For each
17 of fiscal years 2015 through 2024” and inserting “For
18 each fiscal year”.

19 **SEC. 1108. FUNDING FOR HARBOR MAINTENANCE PRO-**
20 **GRAMS.**

21 Section 2101 of the Water Resources Reform and De-
22 velopment Act of 2014 (33 U.S.C. 2238b) is amended—
23 (1) in subsection (b)(1), in the matter pre-
24 ceding subparagraph (A), by striking “The target

1 total” and inserting “Except as provided in sub-
2 section (c), the target total”;

3 (2) by redesignating subsection (c) as sub-
4 section (d); and

5 (3) by inserting after subsection (b) the fol-
6 lowing:

7 “(c) EXCEPTION.—If the target total budget re-
8 sources for a fiscal year described in subparagraphs (A)
9 through (J) of subsection (b)(1) is lower than the target
10 total budget resources for the previous fiscal year, the tar-
11 get total budget resources shall be adjusted to be equal
12 to the lesser of—

13 “(1) 103 percent of the total budget resources
14 appropriated for the previous fiscal year; or

15 “(2) 100 percent of the total amount of harbor
16 maintenance taxes received in the previous fiscal
17 year.”.

18 **SEC. 1109. MAINTENANCE OF HARBORS OF REFUGE.**

19 The Secretary is authorized to maintain federally au-
20 thorized harbors of refuge to restore and maintain the au-
21 thorized dimensions of the harbors.

22 **SEC. 1110. DONOR PORTS AND ENERGY TRANSFER PORTS.**

23 Section 2106 of the Water Resources Reform and De-
24 velopment Act of 2014 (33 U.S.C. 2238c) is amended—

25 (1) in subsection (a)—

1 (A) by redesignating paragraphs (2)
2 through (6) as paragraphs (3) through (7), re-
3 spectively;

4 (B) by inserting after paragraph (1) the
5 following:

6 “(2) DISCRETIONARY CARGO.—The term ‘dis-
7 cretionary cargo’ means maritime cargo for which
8 the United States port of unloading is different than
9 the United States port of entry.”;

10 (C) in paragraph (3) (as redesignated)—

11 (i) by redesignating subparagraphs
12 (A) through (D) as clauses (i) through
13 (iv), respectively, and indenting appro-
14 priately;

15 (ii) in the matter preceding clause (i)
16 (as redesignated) by striking “The term”
17 and inserting the following:

18 “(A) IN GENERAL.—The term”; and

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

21 “(B) CALCULATION.—For the purpose of
22 calculating the percentage described in subpara-
23 graph (A)(iii), payments described under sub-
24 section (c)(1) shall not be included.”;

1 (D) in paragraph (5)(A) (as redesignated),
2 by striking “Code of Federal Regulation” and
3 inserting “Code of Federal Regulations”; and

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

5 “(8) MEDIUM-SIZED DONOR PORT.—The term
6 ‘medium-sized donor port’ means a port—

7 “(A) that is subject to the harbor mainte-
8 nance fee under section 24.24 of title 19, Code
9 of Federal Regulations (or a successor regula-
10 tion);

11 “(B) at which the total amount of harbor
12 maintenance taxes collected comprise annually
13 more than \$5,000,000 but less than
14 \$15,000,000 of the total funding of the Harbor
15 Maintenance Trust Fund established under sec-
16 tion 9505 of the Internal Revenue Code of
17 1986;

18 “(C) that received less than 25 percent of
19 the total amount of harbor maintenance taxes
20 collected at that port in the previous 5 fiscal
21 years; and

22 “(D) that is located in a State in which
23 more than 2,000,000 cargo containers were un-
24 loaded from or loaded onto vessels in fiscal year
25 2012.”;

1 (2) in subsection (b)—

2 (A) in paragraph (1), by striking “donor
3 ports” and inserting “donor ports, medium-
4 sized donor ports,”; and

5 (B) in paragraph (2)—

6 (i) in subparagraph (A), by striking
7 “and” at the end; and

8 (ii) by striking subparagraph (B) and
9 inserting the following:

10 “(B) shall be made available to a port as
11 either a donor port, medium-sized donor port,
12 or an energy transfer port, and no port may re-
13 ceive amounts from more than 1 designation;
14 and

15 “(C) for donor ports and medium-sized
16 donor ports—

17 “(i) 50 percent of the funds shall be
18 equally divided between the eligible donor
19 ports as authorized by this section; and

20 “(ii) 50 percent of the funds shall be
21 divided between the eligible donor ports
22 and eligible medium-sized donor ports
23 based on the percentage of the total harbor
24 maintenance tax revenues generated at

1 each eligible donor port and medium-sized
2 donor port.”;

3 (3) in subsection (c)—

4 (A) in the matter preceding paragraph (1),
5 by striking “donor port” and inserting “donor
6 port, a medium-sized donor port,”; and

7 (B) in paragraph (1)—

8 (i) by striking “or shippers trans-
9 porting cargo”;

10 (ii) by striking “U.S. Customs and
11 Border Protection” and inserting “the Sec-
12 retary”; and

13 (iii) by striking “amount of harbor
14 maintenance taxes collected” and inserting
15 “value of discretionary cargo”;

16 (4) by striking subsection (d) and inserting the
17 following:

18 “(d) ADMINISTRATION OF PAYMENTS.—

19 “(1) IN GENERAL.—If a donor port, a medium-
20 sized donor port, or an energy transfer port elects
21 to provide payments to importers under subsection
22 (c), the Secretary shall transfer to the Commissioner
23 of U.S. Customs and Border Protection an amount
24 equal to those payments that would otherwise be
25 provided to the port under this section to provide the

1 payments to the importers of the discretionary cargo
2 that is—

3 “(A) shipped through the port; and

4 “(B) most at risk of diversion to seaports
5 outside of the United States.

6 “(2) REQUIREMENT.—The Secretary, in con-
7 sultation with a port electing to provide payments
8 under subsection (c), shall determine the top import-
9 ers at the port, as ranked by the value of discre-
10 tionary cargo, and payments shall be limited to
11 those top importers.”;

12 (5) in subsection (f)—

13 (A) in paragraph (1) by striking “2018”
14 and inserting “2020”;

15 (B) by striking paragraph (2) and insert-
16 ing the following:

17 “(2) DIVISION BETWEEN DONOR PORTS, ME-
18 DIUM-SIZED DONOR PORTS, AND ENERGY TRANSFER
19 PORTS.—For each fiscal year, amounts made avail-
20 able to carry out this section shall be provided in
21 equal amounts to—

22 “(A) donor ports and medium-sized donor
23 ports; and

24 “(B) energy transfer ports.”; and

25 (C) in paragraph (3)—

1 (i) by striking “2015 through 2018”
2 and inserting “2016 through 2020”; and

3 (ii) by striking “2019 through 2022”
4 and inserting “2021 through 2025”; and

5 (6) by adding at the end the following:

6 “(g) SAVINGS CLAUSE.—Nothing in this section
7 waives any statutory requirement related to the transpor-
8 tation of merchandise as authorized under chapter 551 of
9 title 46, United States Code.”.

10 **SEC. 1111. HARBOR DEEPENING.**

11 Section 101(a)(1) of the Water Resources Develop-
12 ment Act of 1986 (33 U.S.C. 2211(a)(1)) is amended—

13 (1) in the matter preceding subparagraph (A)
14 by striking “the date of enactment of this Act” and
15 inserting “the date of enactment of the Water Re-
16 sources Reform and Development Act of 2014 (Pub-
17 lic Law 113–121)”;

18 (2) in subparagraph (B) by striking “45 feet”
19 and inserting “50 feet”; and

20 (3) in subparagraph (C) by striking “45 feet”
21 and inserting “50 feet”.

22 **SEC. 1112. IMPLEMENTATION GUIDANCE.**

23 Section 2102 of the Water Resources Reform and De-
24 velopment Act of 2014 (Public Law 113–121; 128 Stat.
25 1273) is amended by adding at the end the following:

1 “(d) GUIDANCE.—Not later than 90 days after the
2 date of enactment of the Water Resources Development
3 Act of 2016, the Secretary shall publish on the website
4 of the Corps of Engineers guidance on the implementation
5 of this section and the amendments made by this sec-
6 tion.”.

7 **SEC. 1113. NON-FEDERAL INTEREST DREDGING AUTHOR-**
8 **ITY.**

9 (a) IN GENERAL.—The Secretary may permit a non-
10 Federal interest to carry out, for an authorized navigation
11 project (or a separable element of an authorized naviga-
12 tion project), such maintenance activities as are necessary
13 to ensure that the project is maintained to not less than
14 the minimum project dimensions.

15 (b) COST LIMITATIONS.—Except as provided in this
16 section and subject to the availability of appropriations,
17 the costs incurred by a non-Federal interest in performing
18 the maintenance activities described in subsection (a) shall
19 be eligible for reimbursement, not to exceed an amount
20 that is equal to the estimated Federal cost for the per-
21 formance of the maintenance activities, with any reim-
22 bursement subject to the non-Federal interest complying
23 with all Federal laws and regulations that would apply to
24 such maintenance activities if carried out by the Secretary.

1 (c) AGREEMENT.—Before initiating maintenance ac-
2 tivities under this section, a non-Federal interest shall
3 enter into an agreement with the Secretary that specifies,
4 for the performance of the maintenance activities, the
5 terms and conditions that are acceptable to the non-Fed-
6 eral interest and the Secretary.

7 (d) PROVISION OF EQUIPMENT.—In carrying out
8 maintenance activities under this section, a non-Federal
9 interest shall—

10 (1) provide equipment at no cost to the Federal
11 Government; and

12 (2) hold and save the United States free from
13 any and all damage that arises from the use of the
14 equipment of the non-Federal interest, except for
15 damage due to the fault or negligence of a con-
16 tractor of the Federal Government.

17 (e) REIMBURSEMENT ELIGIBILITY LIMITATIONS.—
18 Costs that are eligible for reimbursement under this sec-
19 tion are the costs of maintenance activities directly related
20 to the costs associated with operation and maintenance of
21 a dredge based on the lesser of—

22 (1) the costs associated with operation and
23 maintenance of the dredge during the period of time
24 that the dredge is being used in the performance of

1 work for the Federal Government during a given fis-
2 cal year; or

3 (2) the actual fiscal year Federal appropriations
4 that are made available for the portion of the main-
5 tenance activities for which the dredge was used.

6 (f) AUDIT.—Not earlier than 5 years after the date
7 of enactment of this Act, the Secretary may conduct an
8 audit on any maintenance activities for an authorized
9 navigation project (or a separable element of an author-
10 ized navigation project) carried out under this section to
11 determine if permitting a non-Federal interest to carry out
12 maintenance activities under this section has resulted in—

13 (1) improved reliability and safety for naviga-
14 tion; and

15 (2) cost savings to the Federal Government.

16 (g) TERMINATION OF AUTHORITY.—The authority of
17 the Secretary under this section terminates on the date
18 that is 10 years after the date of enactment of this Act.

19 **SEC. 1114. TRANSPORTATION COST SAVINGS.**

20 Section 210(e)(3) of the Water Resources Develop-
21 ment Act of 1986 (33 U.S.C. 2238(e)(3)) is amended—

22 (1) by redesignating subparagraph (B) as sub-
23 paragraph (C); and

24 (2) by inserting after subparagraph (A) the fol-
25 lowing:

1 “(B) **ADDITIONAL REQUIREMENT.**—In the
2 first report submitted under subparagraph (A)
3 following the date of enactment of the Water
4 Resources Development Act of 2016, the Sec-
5 retary shall identify, to the maximum extent
6 practicable, transportation cost savings realized
7 by achieving and maintaining the constructed
8 width and depth for the harbors and inland
9 harbors referred to in subsection (a)(2), on a
10 project-by-project basis.”.

11 **SEC. 1115. RESERVOIR SEDIMENT.**

12 (a) **IN GENERAL.**—Section 215 of the Water Re-
13 sources Development Act of 2000 (33 U.S.C. 2326c) is
14 amended to read as follows:

15 **“SEC. 215. RESERVOIR SEDIMENT.**

16 “(a) **IN GENERAL.**—Not later than 180 days after
17 the date of enactment of the Water Resources Develop-
18 ment Act of 2016 and after providing public notice, the
19 Secretary shall establish, using available funds, a pilot
20 program to accept services provided by a non-Federal in-
21 terest or commercial entity for removal of sediment cap-
22 tured behind a dam owned or operated by the United
23 States and under the jurisdiction of the Secretary for the
24 purpose of restoring the authorized storage capacity of the
25 project concerned.

1 “(b) REQUIREMENTS.—In carrying out this section,
2 the Secretary shall—

3 “(1) review the services of the non-Federal in-
4 terest or commercial entity to ensure that the serv-
5 ices are consistent with the authorized purposes of
6 the project concerned;

7 “(2) ensure that the non-Federal interest or
8 commercial entity will indemnify the United States
9 for, or has entered into an agreement approved by
10 the Secretary to address, any adverse impact to the
11 dam as a result of such services;

12 “(3) require the non-Federal interest or com-
13 mercial entity, prior to initiating the services and
14 upon completion of the services, to conduct sediment
15 surveys to determine the pre- and post-services sedi-
16 ment profile and sediment quality; and

17 “(4) limit the number of dams for which serv-
18 ices are accepted to 10.

19 “(c) LIMITATION.—

20 “(1) IN GENERAL.—The Secretary may not ac-
21 cept services under subsection (a) if the Secretary,
22 after consultation with the Chief of Engineers, de-
23 termines that accepting the services is not advan-
24 tageous to the United States.

1 “(2) REPORT TO CONGRESS.—If the Secretary
2 makes a determination under paragraph (1), the
3 Secretary shall provide to the Committee on Trans-
4 portation and Infrastructure of the House of Rep-
5 resentatives and the Committee on Environment and
6 Public Works of the Senate written notice describing
7 the reasoning for the determination.

8 “(d) DISPOSITION OF REMOVED SEDIMENT.—In ex-
9 change for providing services under subsection (a), a non-
10 Federal interest or commercial entity is authorized to re-
11 tain, use, recycle, sell, or otherwise dispose of any sedi-
12 ment removed in connection with the services and the
13 Corps of Engineers may not seek any compensation for
14 the value of the sediment.

15 “(e) CONGRESSIONAL NOTIFICATION.—Prior to ac-
16 cepting services provided by a non-Federal interest or
17 commercial entity under this section, the Secretary shall
18 provide to the Committee on Transportation and Infra-
19 structure of the House of Representatives and the Com-
20 mittee on Environment and Public Works of the Senate
21 written notice of the acceptance of the services.

22 “(f) REPORT TO CONGRESS.—Upon completion of
23 services at the 10 dams allowed under subsection (b)(4),
24 the Secretary shall make publicly available and submit to
25 the Committee on Transportation and Infrastructure of

1 the House of Representatives and the Committee on Envi-
2 ronment and Public Works of the Senate a report docu-
3 menting the results of the services.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in section 1(b) of the Water Resources Development Act
6 of 2000 is amended by striking the item relating to section
7 215 and inserting the following:

“Sec. 215. Reservoir sediment.”.

8 **SEC. 1116. WATER SUPPLY CONSERVATION.**

9 (a) IN GENERAL.—In a State in which a drought
10 emergency has been declared or was in effect during the
11 1-year period ending on the date of enactment of this Act,
12 the Secretary is authorized—

13 (1) to conduct an evaluation for purposes of ap-
14 proving water supply conservation measures that are
15 consistent with the authorized purposes of water re-
16 sources development projects under the jurisdiction
17 of the Secretary; and

18 (2) to enter into written agreements pursuant
19 to section 221 of the Flood Control Act of 1970 (42
20 U.S.C. 1962d–5b) with non-Federal interests to
21 carry out the conservation measures approved by
22 such evaluations.

23 (b) ELIGIBILITY.—Water supply conservation meas-
24 ures evaluated under subsection (a) may include the fol-
25 lowing:

1 (1) Stormwater capture.

2 (2) Releases for ground water replenishment or
3 aquifer storage and recovery.

4 (3) Releases to augment water supply at an-
5 other Federal or non-Federal storage facility.

6 (4) Other conservation measures that enhance
7 usage of a Corps of Engineers project for water sup-
8 ply.

9 (c) COSTS.—A non-Federal interest shall pay only the
10 separable costs associated with the evaluation, implemen-
11 tation, operation, and maintenance of an approved water
12 supply conservation measure, which payments may be ac-
13 cepted and expended by the Corps of Engineers to cover
14 such costs.

15 (d) STATUTORY CONSTRUCTION.—Nothing in this
16 section may be construed to modify or alter the obligations
17 of a non-Federal interest under existing or future agree-
18 ments for—

19 (1) water supply storage pursuant to section
20 301 of the Water Supply Act of 1958 (43 U.S.C.
21 390b); or

22 (2) surplus water use pursuant to section 6 of
23 the Act of December 22, 1944 (58 Stat. 890, chap-
24 ter 665; 33 U.S.C. 708).

25 (e) LIMITATIONS.—Nothing in this section—

1 (1) affects, modifies, or changes the authorized
2 purposes of a Corps of Engineers project;

3 (2) affects existing Corps of Engineers authori-
4 ties, including its authorities with respect to naviga-
5 tion, flood damage reduction, and environmental
6 protection and restoration;

7 (3) affects the Corps of Engineers ability to
8 provide for temporary deviations;

9 (4) affects the application of a cost-share re-
10 quirement under section 101, 102, or 103 of the
11 Water Resources Development Act of 1986 (33
12 U.S.C. 2211, 2212, and 2213);

13 (5) supersedes or modifies any written agree-
14 ment between the Federal Government and a non-
15 Federal interest that is in effect on the date of en-
16 actment of this Act;

17 (6) supersedes or modifies any amendment to
18 an existing multistate water control plan, including
19 those water control plans along the Missouri River
20 and those water control plans in the Apalachicola-
21 Chattahoochee-Flint and Alabama-Coosa-Tallapoosa
22 basins;

23 (7) affects any water right in existence on the
24 date of enactment of this Act; or

1 (8) preempts or affects any State water law or
2 interstate compact governing water.

3 **SEC. 1117. DROUGHT EMERGENCIES.**

4 (a) **AUTHORIZED ACTIVITIES.**—With respect to a
5 State in which a drought emergency is in effect on the
6 date of enactment of this Act, or was in effect at any time
7 during the 1-year period ending on such date of enact-
8 ment, and upon the request of the Governor of the State,
9 the Secretary is authorized to—

10 (1) prioritize the updating of the water control
11 manuals for control structures under the jurisdiction
12 of the Secretary that are located in the State; and

13 (2) incorporate into the update seasonal oper-
14 ations for water conservation and water supply for
15 such control structures.

16 (b) **COORDINATION.**—The Secretary shall carry out
17 the update under subsection (a) in coordination with all
18 appropriate Federal agencies, elected officials, and mem-
19 bers of the public.

20 (c) **STATUTORY CONSTRUCTION.**—Nothing in this
21 section affects, modifies, or changes the authorized pur-
22 poses of a Corps of Engineers project, or affects the appli-
23 cability of section 301 of the Water Supply Act of 1958
24 (43 U.S.C. 390b).

1 **SEC. 1118. LEVERAGING FEDERAL INFRASTRUCTURE FOR**
2 **INCREASED WATER SUPPLY.**

3 (a) IN GENERAL.—At the request of a non-Federal
4 interest, the Secretary may review proposals to increase
5 the quantity of available supplies of water at a Federal
6 water resources development project through—

- 7 (1) modification of the project;
- 8 (2) modification of how the project is managed;
- 9 or
- 10 (3) accessing water released from the project.

11 (b) PROPOSALS INCLUDED.—A proposal under sub-
12 section (a) may include—

- 13 (1) increasing the storage capacity of the
14 project;
- 15 (2) diversion of water released or withdrawn
16 from the project—
- 17 (A) to recharge groundwater;
- 18 (B) to aquifer storage and recovery; or
- 19 (C) to any other storage facility;
- 20 (3) construction of facilities for delivery of
21 water from pumping stations constructed by the
22 Secretary;
- 23 (4) construction of facilities to access water;
- 24 and
- 25 (5) a combination of the activities described in
26 paragraphs (1) through (4).

1 (c) EXCLUSIONS.—This section shall not apply to a
2 proposal that—

3 (1) reallocates existing water supply or hydro-
4 power storage; or

5 (2) reduces water available for any authorized
6 project purpose.

7 (d) OTHER FEDERAL PROJECTS.—In any case in
8 which a proposal relates to a Federal project that is not
9 operated by the Secretary, this section shall apply only to
10 activities under the authority of the Secretary.

11 (e) REVIEW PROCESS.—

12 (1) NOTICE.—On receipt of a proposal sub-
13 mitted under subsection (a), the Secretary shall pro-
14 vide a copy of the proposal to each entity described
15 in paragraph (2) and, if applicable, the Federal
16 agency that operates the project, in the case of a
17 project operated by an agency other than the De-
18 partment of the Army.

19 (2) PUBLIC PARTICIPATION.—In reviewing pro-
20 posals submitted under subsection (a), and prior to
21 making any decisions regarding a proposal, the Sec-
22 retary shall comply with all applicable public partici-
23 pation requirements under law, including consulta-
24 tion with—

25 (A) affected States;

1 (B) power marketing administrations, in
2 the case of reservoirs with Federal hydropower
3 projects;

4 (C) entities responsible for operation and
5 maintenance costs;

6 (D) any entity that has a contractual right
7 from the Federal Government or a State to
8 withdraw water from, or use storage at, the
9 project;

10 (E) entities that the State determines hold
11 rights under State law to the use of water from
12 the project; and

13 (F) units of local government with flood
14 risk reduction responsibilities downstream of
15 the project.

16 (f) AUTHORITIES.—A proposal submitted to the Sec-
17 retary under subsection (a) may be reviewed and ap-
18 proved, if applicable and appropriate, under—

19 (1) the specific authorization for the water re-
20 sources development project;

21 (2) section 216 of the Flood Control Act of
22 1970 (33 U.S.C. 549a);

23 (3) section 301 of the Water Supply Act of
24 1958 (43 U.S.C. 390b); and

1 (4) section 14 of the Act of March 3, 1899 (30
2 Stat. 1152, chapter 425; 33 U.S.C. 408).

3 (g) LIMITATIONS.—The Secretary shall not approve
4 a proposal submitted under subsection (a) that—

5 (1) is not supported by the Federal agency that
6 operates the project, if that agency is not the De-
7 partment of the Army;

8 (2) interferes with an authorized purpose of the
9 project;

10 (3) adversely impacts contractual rights to
11 water or storage at the reservoir;

12 (4) adversely impacts legal rights to water
13 under State law, as determined by an affected State;

14 (5) increases costs for any entity other than the
15 entity that submitted the proposal; or

16 (6) if a project is subject to section 301(e) of
17 the Water Supply Act of 1958 (43 U.S.C. 390b(e)),
18 makes modifications to the project that do not meet
19 the requirements of that section unless the modifica-
20 tion is submitted to and authorized by Congress.

21 (h) COST SHARE.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), 100 percent of the cost of developing, re-
24 viewing, and implementing a proposal submitted

1 under subsection (a) shall be provided by an entity
2 other than the Federal Government.

3 (2) PLANNING ASSISTANCE TO STATES.—In the
4 case of a proposal from an entity authorized to re-
5 ceive assistance under section 22 of the Water Re-
6 sources Development Act of 1974 (42 U.S.C.
7 1962d–16), the Secretary may use funds available
8 under that section to pay 50 percent of the cost of
9 a review of a proposal submitted under subsection
10 (a).

11 (3) OPERATION AND MAINTENANCE COSTS.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraphs (B) and (C), the operation and
14 maintenance costs for the non-Federal sponsor
15 of a proposal submitted under subsection (a)
16 shall be 100 percent of the separable operation
17 and maintenance costs associated with the costs
18 of implementing the proposal.

19 (B) CERTAIN WATER SUPPLY STORAGE
20 PROJECTS.—For a proposal submitted under
21 subsection (a) for constructing additional water
22 supply storage at a reservoir for use under a
23 water supply storage agreement, in addition to
24 the costs under subparagraph (A), the non-Fed-
25 eral costs shall include the proportional share of

1 any joint-use costs for operation, maintenance,
2 repair, replacement, or rehabilitation of the res-
3 ervoir project determined in accordance with
4 section 301 of the Water Supply Act of 1958
5 (43 U.S.C. 390b).

6 (C) VOLUNTARY CONTRIBUTIONS.—An en-
7 tity other than an entity described in subpara-
8 graph (A) may voluntarily contribute to the
9 costs of implementing a proposal submitted
10 under subsection (a).

11 (i) CONTRIBUTED FUNDS.—The Secretary may re-
12 ceive and expend funds contributed by a non-Federal in-
13 terest for the review and approval of a proposal submitted
14 under subsection (a).

15 (j) ASSISTANCE.—On request by a non-Federal inter-
16 est, the Secretary may provide technical assistance in the
17 development or implementation of a proposal under sub-
18 section (a), including assistance in obtaining necessary
19 permits for construction, if the non-Federal interest con-
20 tracts with the Secretary to pay all costs of providing the
21 technical assistance.

22 (k) EXCLUSION.—This section shall not apply to res-
23 ervoirs in—

24 (1) the Upper Missouri River;

1 (2) the Apalachicola-Chattahoochee-Flint river
2 system;

3 (3) the Alabama-Coosa-Tallapoosa river system;
4 and

5 (4) the Stones River.

6 (1) EFFECT OF SECTION.—Nothing in this section af-
7 fects or modifies any authority of the Secretary to review
8 or modify reservoirs.

9 **SEC. 1119. INDIAN TRIBES.**

10 Section 1156 of the Water Resources Development
11 Act of 1986 (33 U.S.C. 2310) is amended—

12 (1) in the section heading by inserting “**AND**
13 **INDIAN TRIBES**” after “**TERRITORIES**”; and

14 (2) in subsection (a)—

15 (A) by striking “projects in American” and
16 inserting “projects—
17 “(1) in American”;

18 (B) by striking the period at the end and
19 inserting “; and”; and

20 (C) by adding at the end the following:

21 “(2) for any Indian tribe (as defined in section
22 102 of the Federally Recognized Indian Tribe List
23 Act of 1994 (25 U.S.C. 5130)).”.

1 **SEC. 1120. TRIBAL CONSULTATION REPORTS.**

2 (a) REVIEW.—The Secretary shall submit to the
3 Committee on Environment and Public Works of the Sen-
4 ate and the Committee on Transportation and Infrastruc-
5 ture of the House of Representatives the following:

6 (1) Not later than 30 days after the date of en-
7 actment of this Act, all reports of the Corps of Engi-
8 neers developed pursuant to its Tribal Consultation
9 Policy, dated November 2012, and submitted to the
10 Office of Management and Budget before the date of
11 enactment of this Act.

12 (2) Not later than 30 days after the date of the
13 submission to the Committees under paragraph (1),
14 all reports of the Corps of Engineers developed pur-
15 suant to its Tribal Consultation Policy, dated No-
16 vember 2012, or successor policy, and submitted to
17 the Office of Management and Budget after the date
18 of enactment of this Act.

19 (3) Not later than 1 year after the date of en-
20 actment of this Act, a report that describes the re-
21 sults of a review by the Secretary of existing policies,
22 regulations, and guidance related to consultation
23 with Indian tribes on water resources development
24 projects or other activities that require the approval
25 of, or the issuance of a permit by, the Secretary and

1 that may have an impact on tribal cultural or nat-
2 ural resources.

3 (b) CONSULTATION.—In completing the review under
4 subsection (a)(3), the Secretary shall provide for public
5 and private meetings with Indian tribes and other stake-
6 holders.

7 (c) NO DELAYS.—During the review required under
8 subsection (a)(3), the Secretary shall ensure that—

9 (1) all existing tribal consultation policies, regu-
10 lations, and guidance continue to be implemented;
11 and

12 (2) the review does not affect an approval or
13 issuance of a permit required by the Secretary.

14 **SEC. 1121. TRIBAL PARTNERSHIP PROGRAM.**

15 Section 203 of the Water Resources Development Act
16 of 2000 (33 U.S.C. 2269) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (1), in the matter pre-
19 ceding subparagraph (A), by striking “the Sec-
20 retary” and all that follows through “projects”
21 and inserting “the Secretary may carry out
22 water-related planning activities, or activities
23 relating to the study, design, and construction
24 of water resources development projects,”;

1 (B) in paragraph (2) by striking “(2)
2 MATTERS TO BE STUDIED.—A study” and in-
3 serting the following:

4 “(2) AUTHORIZED ACTIVITIES.—An activity”;
5 and

6 (C) by adding at the end the following:

7 “(3) FEASIBILITY STUDY AND REPORTS.—

8 “(A) IN GENERAL.—On the request of an
9 Indian tribe, the Secretary shall conduct a
10 study on, and provide to the Indian tribe a re-
11 port describing, the feasibility of a water re-
12 sources development project described in para-
13 graph (1).

14 “(B) RECOMMENDATION.—A report under
15 subparagraph (A) may, but shall not be re-
16 quired to, contain a recommendation on a spe-
17 cific water resources development project.

18 “(4) DESIGN AND CONSTRUCTION.—

19 “(A) IN GENERAL.—The Secretary may
20 carry out the design and construction of a
21 water resources development project described
22 in paragraph (1) that the Secretary determines
23 is feasible if the Federal share of the cost of the
24 project is not more than \$10,000,000.

1 “(B) SPECIFIC AUTHORIZATION.—If the
2 Federal share of the cost of a project described
3 in subparagraph (A) is more than \$10,000,000,
4 the Secretary may only carry out the project if
5 Congress enacts a law authorizing the Secretary
6 to carry out the project.”;

7 (2) in subsection (c)—

8 (A) in paragraph (1) by striking “studies”
9 and inserting “an activity”; and

10 (B) in paragraph (2)(B) by striking “car-
11 rying out projects studied” and inserting “an
12 activity conducted”; and

13 (3) in subsection (d)—

14 (A) in paragraph (1)(A) by striking “a
15 study” and inserting “an activity conducted”;
16 and

17 (B) by striking paragraph (2) and insert-
18 ing the following:

19 “(2) CREDIT.—The Secretary may credit to-
20 ward the non-Federal share of the costs of an activ-
21 ity conducted under subsection (b) the cost of serv-
22 ices, studies, supplies, or other in-kind contributions
23 provided by the non-Federal interest.

24 “(3) SOVEREIGN IMMUNITY.—The Secretary
25 shall not require an Indian tribe to waive the sov-

1 foreign immunity of the Indian tribe as a condition
2 to entering into a cost-sharing agreement under this
3 subsection.

4 “(4) WATER RESOURCES DEVELOPMENT
5 PROJECTS.—

6 “(A) IN GENERAL.—The non-Federal
7 share of costs for the study of a water resources
8 development project described in subsection
9 (b)(1) shall be 50 percent.

10 “(B) OTHER COSTS.—The non-Federal
11 share of costs of design and construction of a
12 project described in subparagraph (A) shall be
13 assigned to the appropriate project purposes de-
14 scribed in sections 101 and 103 of the Water
15 Resources Development Act of 1986 (33 U.S.C.
16 2211, 2213) and shared in the same percent-
17 ages as the purposes to which the costs are as-
18 signed.

19 “(5) WATER-RELATED PLANNING ACTIVITIES.—

20 “(A) IN GENERAL.—The non-Federal
21 share of costs of a watershed and river basin
22 assessment conducted under subsection (b)
23 shall be 25 percent.

24 “(B) OTHER COSTS.—The non-Federal
25 share of costs of other water-related planning

1 activities described in subsection (b)(1) shall be
2 50 percent.”.

3 **SEC. 1122. BENEFICIAL USE OF DREDGED MATERIAL.**

4 (a) IN GENERAL.—Not later than 90 days after the
5 date of enactment of this Act, the Secretary shall establish
6 a pilot program to carry out projects for the beneficial
7 use of dredged material, including projects for the pur-
8 poses of—

9 (1) reducing storm damage to property and in-
10 frastructure;

11 (2) promoting public safety;

12 (3) protecting, restoring, and creating aquatic
13 ecosystem habitats;

14 (4) stabilizing stream systems and enhancing
15 shorelines;

16 (5) promoting recreation;

17 (6) supporting risk management adaptation
18 strategies; and

19 (7) reducing the costs of dredging and dredged
20 material placement or disposal, such as projects that
21 use dredged material for—

22 (A) construction or fill material;

23 (B) civic improvement objectives; and

1 (C) other innovative uses and placement
2 alternatives that produce public economic or en-
3 vironmental benefits.

4 (b) PROJECT SELECTION.—In carrying out the pilot
5 program, the Secretary shall—

6 (1) identify for inclusion in the pilot program
7 and carry out 10 projects for the beneficial use of
8 dredged material;

9 (2) consult with relevant State agencies in se-
10 lecting projects; and

11 (3) select projects solely on the basis of—

12 (A) the environmental, economic, and so-
13 cial benefits of the projects, including monetary
14 and nonmonetary benefits; and

15 (B) the need for a diversity of project
16 types and geographical project locations.

17 (c) REGIONAL BENEFICIAL USE TEAMS.—

18 (1) IN GENERAL.—In carrying out the pilot
19 program, the Secretary shall establish regional bene-
20 ficial use teams to identify and assist in the imple-
21 mentation of projects under the pilot program.

22 (2) COMPOSITION.—

23 (A) LEADERSHIP.—For each regional ben-
24 efiticial use team established under paragraph
25 (1), the Secretary shall appoint the Commander

1 of the relevant division of the Corps of Engi-
2 neers to serve as the head of the team.

3 (B) MEMBERSHIP.—The membership of
4 each regional beneficial use team shall in-
5 clude—

6 (i) representatives of relevant Corps
7 of Engineers districts and divisions;

8 (ii) representatives of relevant State
9 and local agencies; and

10 (iii) representatives of Federal agen-
11 cies and such other entities as the Sec-
12 retary determines appropriate, consistent
13 with the purposes of this section.

14 (d) CONSIDERATIONS.—The Secretary shall carry out
15 the pilot program in a manner that—

16 (1) maximizes the beneficial placement of
17 dredged material from Federal and non-Federal
18 navigation channels;

19 (2) incorporates, to the maximum extent prac-
20 ticable, 2 or more Federal navigation, flood control,
21 storm damage reduction, or environmental restora-
22 tion projects;

23 (3) coordinates the mobilization of dredges and
24 related equipment, including through the use of such
25 efficiencies in contracting and environmental permit-

1 ting as can be implemented under existing laws and
2 regulations;

3 (4) fosters Federal, State, and local collabora-
4 tion;

5 (5) implements best practices to maximize the
6 beneficial use of dredged sand and other sediments;
7 and

8 (6) ensures that the use of dredged material is
9 consistent with all applicable environmental laws.

10 (e) COST SHARING.—

11 (1) IN GENERAL.—Projects carried out under
12 this section shall be subject to the cost-sharing re-
13 quirements applicable to projects carried out under
14 section 204 of the Water Resources Development
15 Act of 1992 (33 U.S.C. 2326).

16 (2) ADDITIONAL COSTS.—Notwithstanding
17 paragraph (1), if the cost of transporting and depos-
18 iting dredged material for a project carried out
19 under this section exceeds the cost of carrying out
20 those activities pursuant to any other water re-
21 sources project in accordance, if applicable, with the
22 Federal standard (as defined in section 335.7 of title
23 33, Code of Federal Regulations), the Secretary may
24 not require the non-Federal interest to bear the ad-
25 ditional cost of such activities.

1 (f) REPORT.—Not later than 2 years after the date
2 of enactment of this Act, and annually thereafter, the Sec-
3 retary shall submit to the Committee on Environment and
4 Public Works of the Senate and the Committee on Trans-
5 portation and Infrastructure of the House of Representa-
6 tives a report that includes—

7 (1) a description of the projects selected to be
8 carried out under the pilot program;

9 (2) documentation supporting each of the
10 projects selected;

11 (3) the findings of regional beneficial use teams
12 regarding project selection; and

13 (4) any recommendations of the Secretary or
14 regional beneficial use teams with respect to the
15 pilot program.

16 (g) TERMINATION.—The pilot program shall termi-
17 nate after completion of the 10 projects carried out pursu-
18 ant to subsection (b)(1).

19 (h) EXEMPTION FROM OTHER STANDARDS.—The
20 projects carried out under this section shall be carried out
21 notwithstanding the definition of the term “Federal stand-
22 ard” in section 335.7 of title 33, Code of Federal Regula-
23 tions.

1 (i) REGIONAL SEDIMENT MANAGEMENT.—Section
2 204 of the Water Resources Development Act of 1992 (33
3 U.S.C. 2326) is amended—

4 (1) in subsection (a)(1)—

5 (A) by striking “For sediment” and insert-
6 ing the following:

7 “(A) SEDIMENT FROM FEDERAL WATER
8 RESOURCES PROJECTS.—For sediment”; and

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

10 “(B) SEDIMENT FROM OTHER FEDERAL
11 SOURCES AND NON-FEDERAL SOURCES.—For
12 purposes of projects carried out under this sec-
13 tion, the Secretary may include sediment from
14 other Federal sources and non-Federal sources,
15 subject to the requirement that any sediment
16 obtained from a non-Federal source shall not be
17 obtained at Federal expense.”; and

18 (2) in subsection (d) by adding at the end the
19 following:

20 “(3) SPECIAL RULE.—Disposal of dredged ma-
21 terial under this subsection may include a single or
22 periodic application of sediment for beneficial use
23 and shall not require operation and maintenance.

24 “(4) DISPOSAL AT NON-FEDERAL COST.—The
25 Secretary may accept funds from a non-Federal in-

1 interest to dispose of dredged material as provided
2 under section 103(d)(1) of the Water Resources De-
3 velopment Act of 1986 (33 U.S.C. 2213(d)(1)).”.

4 (j) CLARIFICATION.—Section 156(e) of the Water
5 Resources Development Act of 1976 (42 U.S.C. 1962d–
6 5f(e)) is amended by striking “3” and inserting “6”.

7 **SEC. 1123. GREAT LAKES FISHERY AND ECOSYSTEM RES-**
8 **TORATION.**

9 Section 506(g) of the Water Resources Development
10 Act of 2000 (42 U.S.C. 1962d–22(g)) is repealed.

11 **SEC. 1124. CORPS OF ENGINEERS OPERATION OF UN-**
12 **MANNED AIRCRAFT SYSTEMS.**

13 (a) IN GENERAL.—The Secretary shall designate an
14 individual, within the headquarters office of the Corps of
15 Engineers, who shall serve as the coordinator and prin-
16 cipal approving official for developing the process and pro-
17 cedures by which the Corps of Engineers—

18 (1) operates and maintains small unmanned
19 aircraft (as defined in section 331 of the FAA Mod-
20 ernization and Reform Act of 2012 (49 U.S.C.
21 40101 note)) systems in support of civil works and
22 emergency response missions of the Corps of Engi-
23 neers; and

1 (2) acquires, applies for, and receives any nec-
2 essary Federal Aviation Administration authoriza-
3 tions for such operations and systems.

4 (b) REQUIREMENTS.—A small unmanned aircraft
5 system acquired, operated, or maintained for carrying out
6 the missions specified in subsection (a) shall be operated
7 in accordance with regulations of the Federal Aviation Ad-
8 ministration as a civil aircraft or public aircraft, at the
9 discretion of the Secretary, and shall be exempt from regu-
10 lations of the Department of Defense, including the De-
11 partment of the Army, governing such system.

12 (c) LIMITATION.—A small unmanned aircraft system
13 acquired, operated, or maintained by the Corps of Engi-
14 neers is excluded from use by the Department of Defense,
15 including the Department of the Army, for any mission
16 of the Department of Defense other than a mission speci-
17 fied in subsection (a).

18 **SEC. 1125. FUNDING TO PROCESS PERMITS.**

19 Section 214(a) of the Water Resources Development
20 Act of 2000 (33 U.S.C. 2352(a)) is amended—

21 (1) in paragraph (1) by adding at the end the
22 following:

23 “(C) RAILROAD CARRIER.—The term ‘rail-
24 road carrier’ has the meaning given the term in
25 section 20102 of title 49, United States Code.”;

1 (2) in paragraph (2)—

2 (A) by striking “or natural gas company”
3 and inserting “, natural gas company, or rail-
4 road carrier”; and

5 (B) by striking “or company” and insert-
6 ing “, company, or carrier”;

7 (3) in paragraph (3)—

8 (A) by striking “or natural gas company”
9 and inserting “, natural gas company, or rail-
10 road carrier”; and

11 (B) by striking “7 years” and inserting
12 “10 years”; and

13 (4) in paragraph (5) by striking “and natural
14 gas companies” and inserting “, natural gas compa-
15 nies, and railroad carriers, including an evaluation
16 of the compliance with the requirements of this sec-
17 tion and, with respect to a permit for those entities,
18 the requirements of applicable Federal laws”.

19 **SEC. 1126. STUDY OF WATER RESOURCES DEVELOPMENT**
20 **PROJECTS BY NON-FEDERAL INTERESTS.**

21 Section 203 of the Water Resources Development Act
22 of 1986 (33 U.S.C. 2231) is amended by adding at the
23 end the following:

24 “(e) TECHNICAL ASSISTANCE.—At the request of a
25 non-Federal interest, the Secretary may provide to the

1 non-Federal interest technical assistance relating to any
2 aspect of a feasibility study if the non-Federal interest
3 contracts with the Secretary to pay all costs of providing
4 such technical assistance.”.

5 **SEC. 1127. NON-FEDERAL CONSTRUCTION OF AUTHORIZED**
6 **FLOOD DAMAGE REDUCTION PROJECTS.**

7 Section 204(d) of the Water Resources Development
8 Act of 1986 (33 U.S.C. 2232(d)) is amended by adding
9 at the end the following:

10 “(5) DISCRETE SEGMENTS.—

11 “(A) IN GENERAL.—The Secretary may
12 authorize credit or reimbursement under this
13 subsection for a discrete segment of a flood
14 damage reduction project, or separable element
15 thereof, before final completion of the project or
16 separable element if—

17 “(i) except as provided in clause (ii),
18 the Secretary determines that the discrete
19 segment satisfies the requirements of para-
20 graphs (1) through (4) in the same man-
21 ner as the project or separable element;
22 and

23 “(ii) notwithstanding paragraph
24 (1)(A)(ii), the Secretary determines, before
25 the approval of the plans under paragraph

1 (1)(A)(i), that the discrete segment is tech-
2 nically feasible and environmentally accept-
3 able.

4 “(B) DETERMINATION.—Credit or reim-
5 bursement may not be made available to a non-
6 Federal interest pursuant to this paragraph
7 until the Secretary determines that—

8 “(i) the construction of the discrete
9 segment for which credit or reimbursement
10 is requested is complete; and

11 “(ii) the construction is consistent
12 with the authorization of the applicable
13 flood damage reduction project, or sepa-
14 rable element thereof, and the plans ap-
15 proved under paragraph (1)(A)(i).

16 “(C) WRITTEN AGREEMENT.—

17 “(i) IN GENERAL.—As part of the
18 written agreement required under para-
19 graph (1)(A)(iii), a non-Federal interest to
20 be eligible for credit or reimbursement
21 under this paragraph shall—

22 “(I) identify any discrete seg-
23 ment that the non-Federal interest
24 may carry out; and

1 “(II) agree to the completion of
2 the flood damage reduction project, or
3 separable element thereof, with re-
4 spect to which the discrete segment is
5 a part and establish a timeframe for
6 such completion.

7 “(ii) REMITTANCE.—If a non-Federal
8 interest fails to complete a flood damage
9 reduction project, or separable element
10 thereof, that it agreed to complete under
11 clause (i)(II), the non-Federal interest
12 shall remit any reimbursements received
13 under this paragraph for a discrete seg-
14 ment of such project or separable element.

15 “(D) DISCRETE SEGMENT DEFINED.—In
16 this paragraph, the term ‘discrete segment’
17 means a physical portion of a flood damage re-
18 duction project, or separable element thereof—

19 “(i) described by a non-Federal inter-
20 est in a written agreement required under
21 paragraph (1)(A)(iii); and

22 “(ii) that the non-Federal interest can
23 operate and maintain, independently and
24 without creating a hazard, in advance of
25 final completion of the flood damage reduc-

1 tion project, or separable element there-
2 of.”.

3 **SEC. 1128. MULTISTATE ACTIVITIES.**

4 Section 22 of the Water Resources Development Act
5 of 1974 (42 U.S.C. 1962d–16) is amended—

6 (1) in subsection (a)(1)—

7 (A) by striking “or other non-Federal in-
8 terest” and inserting “, group of States, or
9 non-Federal interest”;

10 (B) by inserting “or group of States” after
11 “working with a State”; and

12 (C) by inserting “or group of States” after
13 “boundaries of such State”; and

14 (2) in subsection (e)(1) by adding at the end
15 the following: “The Secretary may allow 2 or more
16 States to combine all or a portion of the funds that
17 the Secretary makes available to the States in car-
18 rying out subsection (a)(1).”.

19 **SEC. 1129. PLANNING ASSISTANCE TO STATES.**

20 Section 22 of the Water Resources Development Act
21 of 1974 (42 U.S.C. 1962d–16) is amended by adding at
22 the end the following:

23 “(f) SPECIAL RULE.—The cost-share for assistance
24 under this section provided to Indian tribes, the Common-
25 wealth of Puerto Rico, Guam, American Samoa, the Vir-

1 gin Islands, the Commonwealth of the Northern Marianas,
2 and the Trust Territory of the Pacific Islands shall be as
3 provided under section 1156 of the Water Resources De-
4 velopment Act of 1986 (33 U.S.C. 2310).”.

5 **SEC. 1130. REGIONAL PARTICIPATION ASSURANCE FOR**
6 **LEVEE SAFETY ACTIVITIES.**

7 (a) NATIONAL LEVEE SAFETY PROGRAM.—Section
8 9002 of the Water Resources Development Act of 2007
9 (33 U.S.C. 3301) is amended—

10 (1) in paragraph (11) by striking “State or In-
11 dian tribe” and inserting “State, regional district, or
12 Indian tribe”;

13 (2) by redesignating paragraphs (12) through
14 (16) as paragraphs (13) through (17), respectively;
15 and

16 (3) by inserting after paragraph (11) the fol-
17 lowing:

18 “(12) REGIONAL DISTRICT.—The term ‘re-
19 gional district’ means a subdivision of a State gov-
20 ernment, or a subdivision of multiple State govern-
21 ments, that is authorized to acquire, construct, oper-
22 ate, and maintain projects for the purpose of flood
23 damage reduction.”.

1 (b) INVENTORY AND INSPECTION OF LEVEES.—Sec-
2 tion 9004 of the Water Resources Development Act of
3 2007 (33 U.S.C. 3303) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1) by striking “one year
6 after the date of enactment of this Act” and in-
7 serting “1 year after the date of enactment of
8 the Water Resources Development Act of
9 2016”;

10 (B) in paragraph (2)(A) by striking
11 “States, Indian tribes, Federal agencies, and
12 other entities” and inserting “States, regional
13 districts, Indian tribes, Federal agencies, and
14 other entities”; and

15 (C) in paragraph (3)—

16 (i) in the heading for subparagraph
17 (A) by striking “FEDERAL, STATE, AND
18 LOCAL” and inserting “FEDERAL, STATE,
19 REGIONAL, TRIBAL, AND LOCAL”; and

20 (ii) in subparagraph (A) by striking
21 “Federal, State, and local” and inserting
22 “Federal, State, regional, tribal, and
23 local”; and

24 (2) in subsection (c)—

25 (A) in paragraph (4)—

1 (i) in the paragraph heading by strik-
2 ing “STATE AND TRIBAL” and inserting
3 “STATE, REGIONAL, AND TRIBAL”; and

4 (ii) by striking “State or Indian tribe”
5 each place it appears and inserting “State,
6 regional district, or Indian tribe”; and

7 (B) in paragraph (5)—

8 (i) by striking “State or Indian tribe”
9 and inserting “State, regional district, or
10 Indian tribe”; and

11 (ii) by striking “chief executive of the
12 tribal government” and inserting “chief ex-
13 ecutive of the regional district or tribal
14 government”.

15 (c) LEVEE SAFETY INITIATIVE.—Section 9005 of the
16 Water Resources Development Act of 2007 (33 U.S.C.
17 3303a) is amended—

18 (1) in subsection (c)—

19 (A) in paragraph (1)—

20 (i) in the matter preceding subpara-
21 graph (A)—

22 (I) by striking “1 year after the
23 date of enactment of this subsection”
24 and inserting “1 year after the date of

1 enactment of the Water Resources
2 Development Act of 2016”; and

3 (II) by striking “State, local, and
4 tribal governments and organizations”
5 and inserting “State, regional, local,
6 and tribal governments and organiza-
7 tions”; and

8 (ii) in subparagraph (A) by striking
9 “Federal, State, tribal, and local agencies”
10 and inserting “Federal, State, regional,
11 local, and tribal agencies”;

12 (B) in paragraph (3)—

13 (i) in subparagraph (A) by striking
14 “State, local, and tribal governments,” and
15 inserting “State, regional, local, and tribal
16 governments”; and

17 (ii) in subparagraph (B) by inserting
18 “, regional, or tribal” after “State” each
19 place it appears; and

20 (C) in paragraph (5)(A) by striking
21 “States, non-Federal interests, and other ap-
22 propriate stakeholders” and inserting “States,
23 regional districts, Indian tribes, non-Federal in-
24 terests, and other appropriate stakeholders”;

1 (2) in subsection (e)(1) in the matter preceding
2 subparagraph (A) by striking “States, communities,
3 and levee owners” and inserting “States, regional
4 districts, Indian tribes, communities, and levee own-
5 ers”;

6 (3) in subsection (g)—

7 (A) in the subsection heading by striking
8 “STATE AND TRIBAL” and inserting “STATE,
9 REGIONAL, AND TRIBAL”;

10 (B) in paragraph (1)—

11 (i) in subparagraph (A)—

12 (I) by striking “1 year after the
13 date of enactment of this subsection”
14 and inserting “1 year after the date of
15 enactment of the Water Resources
16 Development Act of 2016”; and

17 (II) by striking “State or tribal”
18 and inserting “State, regional, or trib-
19 al”; and

20 (ii) in subparagraph (B)—

21 (I) by striking “State and Indian
22 tribe” and inserting “State, regional
23 district, and Indian tribe”; and

1 (II) by striking “State or Indian
2 tribe” and inserting “State, regional
3 district, or Indian tribe”; and

4 (C) in paragraph (2)—

5 (i) in the paragraph heading by strik-
6 ing “STATES” and inserting “STATES, RE-
7 GIONAL DISTRICTS, AND INDIAN TRIBES”;

8 (ii) in subparagraph (A) by striking
9 “States and Indian tribes” and inserting
10 “States, regional districts, and Indian
11 tribes”;

12 (iii) in subparagraph (B)—

13 (I) in the matter preceding clause
14 (i) by striking “State or Indian tribe”
15 and inserting “State, regional district,
16 or Indian tribe”;

17 (II) in clause (ii) by striking
18 “levees within the State” and insert-
19 ing “levees within the State or re-
20 gional district”; and

21 (III) in clause (iii) by striking
22 “State or Indian tribe” and inserting
23 “State, regional district, or Indian
24 tribe”;

- 1 (iv) in subparagraph (C)(ii) in the
2 matter preceding subclause (I) by striking
3 “State or tribal” and inserting “State, re-
4 gional, or tribal”; and
- 5 (v) in subparagraph (E)—
- 6 (I) by striking “States and In-
7 dian tribes” each place it appears and
8 inserting “States, regional districts,
9 and Indian tribes”;
- 10 (II) in clause (ii)(II)—
- 11 (aa) in the matter preceding
12 item (aa) by striking “State or
13 Indian tribe” and inserting
14 “State, regional district, or In-
15 dian tribe”;
- 16 (bb) in item (aa) by striking
17 “miles of levees in the State” and
18 inserting “miles of levees in the
19 State or regional district”; and
- 20 (cc) in item (bb) by striking
21 “miles of levees in all States”
22 and inserting “miles of levees in
23 all States and regional districts”;
- 24 and
- 25 (III) in clause (iii)—

1 (aa) by striking “State or
2 Indian tribe” and inserting
3 “State, regional district, or In-
4 dian tribe”; and

5 (bb) by striking “State or
6 tribal” and inserting “State, re-
7 gional, or tribal”; and

8 (4) in subsection (h)—

9 (A) in paragraph (1) by striking “States,
10 Indian tribes, and local governments” and in-
11 serting “States, regional districts, Indian tribes,
12 and local governments”;

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A) by striking “State, Indian tribe,
16 or local government” and inserting “State,
17 regional district, Indian tribe, or local gov-
18 ernment”; and

19 (ii) in subparagraph (E) in the matter
20 preceding clause (i) by striking “State or
21 tribal” and inserting “State, regional, or
22 tribal”;

23 (C) in paragraph (3)—

24 (i) in subparagraph (A) by striking
25 “State, Indian tribe, or local government”

1 and inserting “State, regional district, In-
2 dian tribe, or local government”; and

3 (ii) in subparagraph (D) by striking
4 “180 days after the date of enactment of
5 this subsection” and inserting “180 days
6 after the date of enactment of the Water
7 Resources Development Act of 2016”; and
8 (D) in paragraph (4)(A)(i) by striking
9 “State or tribal” and inserting “State, regional,
10 or tribal”.

11 (d) REPORTS.—Section 9006 of the Water Resources
12 Development Act of 2007 (33 U.S.C. 3303b) is amend-
13 ed—

14 (1) in subsection (a)(1)—

15 (A) in the matter preceding subparagraph
16 (A) by striking “1 year after the date of enact-
17 ment of this subsection” and inserting “1 year
18 after the date of enactment of the Water Re-
19 sources Development Act of 2016”; and

20 (B) in subparagraph (B) by striking
21 “State and tribal” and inserting “State, re-
22 gional, and tribal”;

23 (2) in subsection (c)—

24 (A) in the matter preceding paragraph
25 (1)—

1 (i) by striking “2 years after the date
2 of enactment of this subsection” and in-
3 sserting “2 years after the date of enact-
4 ment of the Water Resources Development
5 Act of 2016”; and

6 (ii) by striking “State, tribal, and
7 local” and inserting “State, regional, trib-
8 al, and local”;

9 (B) in paragraph (2) by striking “State
10 and tribal” and inserting “State, regional, and
11 tribal”; and

12 (C) in paragraph (4) by striking “State
13 and local” and inserting “State, regional, tribal,
14 and local”; and

15 (3) in subsection (d)—

16 (A) in the matter preceding paragraph (1)
17 by striking “1 year after the date of enactment
18 of this subsection” and inserting “1 year after
19 the date of enactment of the Water Resources
20 Development Act of 2016”; and

21 (B) in paragraph (2) by striking “State or
22 tribal” and inserting “State, regional, or trib-
23 al”.

1 **SEC. 1131. PARTICIPATION OF NON-FEDERAL INTERESTS.**

2 Section 221(b)(1) of the Flood Control Act of 1970
3 (42 U.S.C. 1962d–5b(b)(1)) is amended by inserting
4 “and, as defined in section 3 of the Alaska Native Claims
5 Settlement Act (43 U.S.C. 1602), a Native village, Re-
6 gional Corporation, and Village Corporation” after “In-
7 dian tribe”.

8 **SEC. 1132. POST-AUTHORIZATION CHANGE REPORTS.**

9 (a) IN GENERAL.—The completion of a post-author-
10 ization change report prepared by the Corps of Engineers
11 for a water resources development project—

12 (1) may not be delayed as a result of consider-
13 ation being given to changes in policy or priority
14 with respect to project consideration; and

15 (2) shall be submitted, upon completion, to—

16 (A) the Committee on Environment and
17 Public Works of the Senate; and

18 (B) the Committee on Transportation and
19 Infrastructure of the House of Representatives.

20 (b) COMPLETION REVIEW.—With respect to a post-
21 authorization change report subject to review by the Sec-
22 retary, the Secretary shall, not later than 120 days after
23 the date of completion of such report—

24 (1) review the report; and

1 (2) provide to Congress any recommendations
2 of the Secretary regarding modification of the appli-
3 cable water resources development project.

4 (c) **PRIOR REPORTS.**—Not later than 120 days after
5 the date of enactment of this Act, with respect to any post-
6 authorization change report that was completed prior to
7 the date of enactment of this Act and is subject to a review
8 by the Secretary that has yet to be completed, the Sec-
9 retary shall complete review of, and provide recommenda-
10 tions to Congress with respect to, the report.

11 (d) **POST-AUTHORIZATION CHANGE REPORT INCLU-**
12 **SIONS.**—In this section, the term “post-authorization
13 change report” includes—

14 (1) a general reevaluation report;

15 (2) a limited reevaluation report; and

16 (3) any other report that recommends the modi-
17 fication of an authorized water resources develop-
18 ment project.

19 **SEC. 1133. MAINTENANCE DREDGING DATA.**

20 (a) **IN GENERAL.**—The Secretary shall establish,
21 maintain, and make publicly available a database on main-
22 tenance dredging carried out by the Secretary, which shall
23 include information on maintenance dredging carried out
24 by Federal and non-Federal vessels.

1 (b) SCOPE.—The Secretary shall include in the data-
2 base maintained under subsection (a), for each mainte-
3 nance dredging project and contract, estimated and actual
4 data on—

5 (1) the volume of dredged material removed;

6 (2) the initial cost estimate of the Corps of En-
7 gineers;

8 (3) the total cost;

9 (4) the party and vessel carrying out the work;

10 and

11 (5) the number of private contractor bids re-
12 ceived and the bid amounts, including bids that did
13 not win the final contract award.

14 **SEC. 1134. ELECTRONIC SUBMISSION AND TRACKING OF**
15 **PERMIT APPLICATIONS.**

16 (a) IN GENERAL.—Section 2040 of the Water Re-
17 sources Development Act of 2007 (33 U.S.C. 2345) is
18 amended to read as follows:

19 **“SEC. 2040. ELECTRONIC SUBMISSION AND TRACKING OF**
20 **PERMIT APPLICATIONS.**

21 **“(a) DEVELOPMENT OF ELECTRONIC SYSTEM.—**

22 **“(1) IN GENERAL.—**The Secretary shall re-
23 search, develop, and implement an electronic system
24 to allow the electronic preparation and submission of
25 applications for permits and requests for jurisdic-

1 tional determinations under the jurisdiction of the
2 Secretary.

3 “(2) INCLUSION.—The electronic system re-
4 quired under paragraph (1) shall address—

5 “(A) applications for standard individual
6 permits;

7 “(B) applications for letters of permission;

8 “(C) joint applications with States for
9 State and Federal permits;

10 “(D) applications for emergency permits;

11 “(E) applications or requests for jurisdic-
12 tional determinations; and

13 “(F) preconstruction notification submis-
14 sions, when required for a nationwide or other
15 general permit.

16 “(3) IMPROVING EXISTING DATA SYSTEMS.—
17 The Secretary shall seek to incorporate the elec-
18 tronic system required under paragraph (1) into ex-
19 isting systems and databases of the Corps of Engi-
20 neers to the maximum extent practicable.

21 “(4) PROTECTION OF INFORMATION.—The elec-
22 tronic system required under paragraph (1) shall
23 provide for the protection of personal, private, privi-
24 leged, confidential, and proprietary information, and

1 information the disclosure of which is otherwise pro-
2 hibited by law.

3 “(b) SYSTEM REQUIREMENTS.—The electronic sys-
4 tem required under subsection (a) shall—

5 “(1) enable an applicant or requester to prepare
6 electronically an application for a permit or request;

7 “(2) enable an applicant or requester to submit
8 to the Secretary, by email or other means through
9 the Internet, the completed application form or re-
10 quest;

11 “(3) enable an applicant or requester to submit
12 to the Secretary, by email or other means through
13 the Internet, data and other information in support
14 of the permit application or request;

15 “(4) provide an online interactive guide to pro-
16 vide assistance to an applicant or requester at any
17 time while filling out the permit application or re-
18 quest; and

19 “(5) enable an applicant or requester (or a des-
20 ignated agent) to track the status of a permit appli-
21 cation or request in a manner that will—

22 “(A) allow the applicant or requester to
23 determine whether the application is pending or
24 final and the disposition of the request;

1 “(B) allow the applicant or requester to re-
2 search previously submitted permit applications
3 and requests within a given geographic area
4 and the results of such applications or requests;
5 and

6 “(C) allow identification and display of the
7 location of the activities subject to a permit or
8 request through a map-based interface.

9 “(c) DOCUMENTATION.—All permit decisions and ju-
10 risdictional determinations made by the Secretary shall be
11 in writing and include documentation supporting the basis
12 for the decision or determination. The Secretary shall pre-
13 scribe means for documenting all decisions or determina-
14 tions to be made by the Secretary.

15 “(d) RECORD OF DETERMINATIONS.—

16 “(1) IN GENERAL.—The Secretary shall main-
17 tain, for a minimum of 5 years, a record of each
18 permit decision and jurisdictional determination
19 made by the Secretary, including documentation
20 supporting the basis of the decision or determina-
21 tion.

22 “(2) ARCHIVING OF INFORMATION.—The Sec-
23 retary shall explore and implement an appropriate
24 mechanism for archiving records of permit decisions
25 and jurisdictional determinations, including docu-

1 mentation supporting the basis of the decisions and
2 determinations, after the 5-year maintenance period
3 described in paragraph (1).

4 “(e) AVAILABILITY OF DETERMINATIONS.—

5 “(1) IN GENERAL.—The Secretary shall make
6 the records of all permit decisions and jurisdictional
7 determinations made by the Secretary available to
8 the public for review and reproduction.

9 “(2) PROTECTION OF INFORMATION.—The Sec-
10 retary shall provide for the protection of personal,
11 private, privileged, confidential, and proprietary in-
12 formation, and information the disclosure of which is
13 prohibited by law, which may be excluded from dis-
14 closure.

15 “(f) DEADLINE FOR ELECTRONIC SYSTEM IMPLE-
16 MENTATION.—

17 “(1) IN GENERAL.—The Secretary shall develop
18 and implement, to the maximum extent practicable,
19 the electronic system required under subsection (a)
20 not later than 2 years after the date of enactment
21 of the Water Resources Development Act of 2016.

22 “(2) REPORT ON ELECTRONIC SYSTEM IMPLE-
23 MENTATION.—Not later than 180 days after the ex-
24 piration of the deadline under paragraph (1), the
25 Secretary shall submit to the Committee on Trans-

1 portation and Infrastructure of the House of Rep-
2 resentatives and the Committee on Environment and
3 Public Works of the Senate a report describing the
4 measures implemented and barriers faced in car-
5 rying out this section.

6 “(g) **APPLICABILITY.**—The requirements described in
7 subsections (c), (d), and (e) shall apply to permit applica-
8 tions and requests for jurisdictional determinations sub-
9 mitted to the Secretary after the date of enactment of the
10 Water Resources Development Act of 2016.

11 “(h) **LIMITATION.**—This section shall not preclude
12 the submission to the Secretary, acting through the Chief
13 of Engineers, of a physical copy of a permit application
14 or a request for a jurisdictional determination.”.

15 (b) **CLERICAL AMENDMENT.**—The table of contents
16 in section 1(b) of the Water Resources Development Act
17 of 2007 is amended by striking the item relating to section
18 2040 and inserting the following:

“Sec. 2040. Electronic submission and tracking of permit applications.”.

19 **SEC. 1135. DATA TRANSPARENCY.**

20 Section 2017 of the Water Resources Development
21 Act of 2007 (33 U.S.C. 2342) is amended to read as fol-
22 lows:

23 **“SEC. 2017. ACCESS TO WATER RESOURCE DATA.**

24 “(a) **IN GENERAL.**—Using available funds, the Sec-
25 retary shall make publicly available, including on the

1 Internet, all data in the custody of the Corps of Engineers
2 on—

3 “(1) the planning, design, construction, oper-
4 ation, and maintenance of water resources develop-
5 ment projects; and

6 “(2) water quality and water management of
7 projects owned, operated, or managed by the Corps
8 of Engineers.

9 “(b) LIMITATION.—Nothing in this section may be
10 construed to compel or authorize the disclosure of data
11 or other information determined by the Secretary to be
12 confidential information, privileged information, law en-
13 forcement information, national security information, in-
14 frastructure security information, personal information, or
15 information the disclosure of which is otherwise prohibited
16 by law.

17 “(c) TIMING.—The Secretary shall ensure that data
18 is made publicly available under subsection (a) as quickly
19 as practicable after the data is generated by the Corps
20 of Engineers.

21 “(d) PARTNERSHIPS.—In carrying out this section,
22 the Secretary may develop partnerships, including through
23 cooperative agreements, with State, tribal, and local gov-
24 ernments and other Federal agencies.”.

1 **SEC. 1136. QUALITY CONTROL.**

2 (a) IN GENERAL.—Paragraph (a) of the first section
3 of the Act of December 22, 1944 (58 Stat. 888, chapter
4 665; 33 U.S.C. 701–1(a)), is amended by inserting “and
5 shall be made publicly available” before the period at the
6 end of the last sentence.

7 (b) PROJECT ADMINISTRATION.—Section 2041(b)(1)
8 of the Water Resources Development Act of 2007 (33
9 U.S.C. 2346(b)(1)) is amended by inserting “final post-
10 authorization change report,” after “final reevaluation re-
11 port,”.

12 **SEC. 1137. REPORT ON PURCHASE OF FOREIGN MANUFAC-**
13 **TURED ARTICLES.**

14 Section 213(a) of the Water Resources Development
15 Act of 1992 (Public Law 102–580; 106 Stat. 4831) is
16 amended by adding at the end the following:

17 “(4) REPORT ON PURCHASE OF FOREIGN MAN-
18 UFACTURED ARTICLES.—

19 “(A) IN GENERAL.—In the first annual re-
20 port submitted to Congress after the date of en-
21 actment of this paragraph in accordance with
22 section 8 of the Act of August 11, 1888 (25
23 Stat. 424, chapter 860; 33 U.S.C. 556), and
24 section 925(b) of the Water Resources Develop-
25 ment Act of 1986 (33 U.S.C. 2295(b)), the
26 Secretary shall include a report on the amount

1 of acquisitions in the prior fiscal year made by
2 the Corps of Engineers for civil works projects
3 from entities that manufactured the articles,
4 materials, or supplies outside of the United
5 States.

6 “(B) CONTENTS.—The report required
7 under subparagraph (A) shall indicate, for each
8 category of acquisition—

9 “(i) the dollar value of articles, mate-
10 rials, and supplies purchased that were
11 manufactured outside of the United States;
12 and

13 “(ii) a summary of the total procure-
14 ment funds spent on goods manufactured
15 in the United States and the total procure-
16 ment funds spent on goods manufactured
17 outside of the United States.

18 “(C) PUBLIC AVAILABILITY.—Not later
19 than 30 days after the submission of the report
20 required under subparagraph (A), the Secretary
21 shall make such report publicly available, in-
22 cluding on the Internet.”.

1 **SEC. 1138. INTERNATIONAL OUTREACH PROGRAM.**

2 Section 401(a) of the Water Resources Development
3 Act of 1992 (33 U.S.C. 2329(a)) is amended to read as
4 follows:

5 “(a) AUTHORIZATION.—

6 “(1) IN GENERAL.—The Secretary may engage
7 in activities to inform the United States of techno-
8 logical innovations abroad that could significantly
9 improve water resources development in the United
10 States.

11 “(2) INCLUSIONS.—Activities under paragraph
12 (1) may include—

13 “(A) development, monitoring, assessment,
14 and dissemination of information about foreign
15 water resources projects that could significantly
16 improve water resources development in the
17 United States;

18 “(B) research, development, training, and
19 other forms of technology transfer and ex-
20 change; and

21 “(C) offering technical services that cannot
22 be readily obtained in the private sector to be
23 incorporated into water resources projects if the
24 costs for assistance will be recovered under the
25 terms of each project.”.

1 **SEC. 1139. DAM SAFETY REPAIR PROJECTS.**

2 The Secretary shall issue guidance—

3 (1) on the types of circumstances under which
4 the requirement in section 1203(a) of the Water Re-
5 sources Development Act of 1986 (33 U.S.C.
6 467n(a)) relating to state-of-the-art design or con-
7 struction criteria deemed necessary for safety pur-
8 poses applies to a dam safety repair project;

9 (2) to assist district offices of the Corps of En-
10 gineers in communicating with non-Federal interests
11 when entering into and implementing cost-sharing
12 agreements for dam safety repair projects; and

13 (3) to assist the Corps of Engineers in commu-
14 nicating with non-Federal interests concerning the
15 estimated and final cost-share responsibilities of the
16 non-Federal interests under agreements for dam
17 safety repair projects.

18 **SEC. 1140. FEDERAL COST LIMITATION FOR CERTAIN**
19 **PROJECTS.**

20 Section 506(c) of the Water Resources Development
21 Act of 2000 (42 U.S.C. 1962d–22(c)) is amended by add-
22 ing at the end the following:

23 “(5) RECREATION FEATURES.—A project car-
24 ried out pursuant to this subsection may include
25 compatible recreation features as determined by the
26 Secretary, except that the Federal costs of such fea-

1 tures may not exceed 10 percent of the Federal eco-
2 system restoration costs of the project.”.

3 **SEC. 1141. LAKE KEMP, TEXAS.**

4 Section 3149(a) of the Water Resources Development
5 Act of 2007 (Public Law 110–114; 121 Stat. 1147) is
6 amended—

7 (1) by striking “2020” and inserting “2025”;

8 and

9 (2) by striking “this Act” and inserting “the
10 Water Resources Development Act of 2016”.

11 **SEC. 1142. CORROSION PREVENTION.**

12 Section 1033 of the Water Resources Reform and De-
13 velopment Act of 2014 (33 U.S.C. 2350) is amended by
14 adding at the end the following:

15 “(d) REPORT.—In the first annual report submitted
16 to Congress after the date of enactment of this subsection
17 in accordance with section 8 of the Act of August 11, 1888
18 (25 Stat. 424, chapter 860; 33 U.S.C. 556), and section
19 925(b) of the Water Resources Development Act of 1986
20 (33 U.S.C. 2295(b)), the Secretary shall report on the cor-
21 rosion prevention activities encouraged under this section,
22 including—

23 “(1) a description of the actions the Secretary
24 has taken to implement this section; and

1 “(2) a description of the projects utilizing cor-
2 rosion prevention activities, including which activi-
3 ties were undertaken.”.

4 **SEC. 1143. SEDIMENT SOURCES.**

5 (a) IN GENERAL.—The Secretary is authorized to
6 undertake a study of the economic and noneconomic costs,
7 benefits, and impacts of acquiring by purchase, exchange,
8 or otherwise sediment from domestic and nondomestic
9 sources for shoreline protection.

10 (b) REPORT.—Upon completion of the study, the Sec-
11 retary shall report to Congress on the availability, bene-
12 fits, and impacts, of using domestic and nondomestic
13 sources of sediment for shoreline protection.

14 **SEC. 1144. PRIORITIZATION OF CERTAIN PROJECTS.**

15 The Secretary shall give priority to a project for flood
16 risk management if—

17 (1) there is an executed project partnership
18 agreement for the project; and

19 (2) the project is located in an area—

20 (A) with respect to which—

21 (i) there has been a loss of life due to
22 flood events; and

23 (ii) the President has declared that a
24 major disaster or emergency exists under
25 section 401 of the Robert T. Stafford Dis-

1 aster Relief and Emergency Assistance Act
2 (42 U.S.C. 5170); or
3 (B) that is at significant risk for cata-
4 strophic flooding.

5 **SEC. 1145. GULF COAST OYSTER BED RECOVERY ASSESS-**
6 **MENT.**

7 (a) GULF STATES DEFINED.—In this section, the
8 term “Gulf States” means each of the States of Alabama,
9 Florida, Louisiana, Mississippi, and Texas.

10 (b) GULF COAST OYSTER BED RECOVERY ASSESS-
11 MENT.—The Secretary, in coordination with the Gulf
12 States, shall conduct an assessment relating to the recov-
13 ery of oyster beds on the coasts of the Gulf States that
14 were damaged by events, including—

- 15 (1) Hurricane Katrina in 2005;
16 (2) the *Deepwater Horizon* oil spill in 2010; and
17 (3) floods in 2011 and 2016.

18 (c) INCLUSION.—The assessment conducted under
19 subsection (b) shall address the beneficial use of dredged
20 material in providing substrate for oyster bed develop-
21 ment.

22 (d) REPORT.—Not later than 180 days after the date
23 of enactment of this Act, the Secretary shall submit to
24 the Committee on Environment and Public Works of the
25 Senate and the Committee on Transportation and Infra-

1 structure of the House of Representatives a report on the
2 assessment conducted under subsection (b).

3 **SEC. 1146. INITIATING WORK ON SEPARABLE ELEMENTS.**

4 With respect to a water resources development
5 project that has received construction funds in the pre-
6 vious 6-year period, for purposes of initiating work on a
7 separable element of the project—

8 (1) no new start or new investment decision
9 shall be required; and

10 (2) the work shall be treated as ongoing work.

11 **SEC. 1147. LOWER BOIS D'ARC CREEK RESERVOIR**
12 **PROJECT, FANNIN COUNTY, TEXAS.**

13 (a) FINALIZATION REQUIRED.—The Secretary shall
14 ensure that environmental decisions and reviews related
15 to the construction of, impoundment of water in, and oper-
16 ation of the Lower Bois d'Arc Creek Reservoir Project,
17 including any associated water transmission facilities, by
18 the North Texas Municipal Water District in Fannin
19 County, Texas, are made on an expeditious basis using
20 the fastest applicable process.

21 (b) INTERIM REPORT.—Not later than June 30,
22 2017, the Secretary shall report to Congress on the imple-
23 mentation of subsection (a).

1 **SEC. 1148. RECREATIONAL ACCESS AT CORPS OF ENGI-**
2 **NEERS RESERVOIRS.**

3 Section 1035 of the Water Resources Reform and De-
4 velopment Act of 2014 (Public Law 113–121; 128 Stat.
5 1234) is amended—

6 (1) by striking subsection (b) and inserting the
7 following:

8 “(b) RECREATIONAL ACCESS.—The Secretary shall
9 allow the use of a floating cabin on waters under the juris-
10 diction of the Secretary in the Cumberland River basin
11 if—

12 “(1) the floating cabin—

13 “(A) is in compliance with, and maintained
14 by the owner to satisfy the requirements of,
15 regulations for recreational vessels, including
16 health and safety standards, issued under chap-
17 ter 43 of title 46, United States Code, and sec-
18 tion 312 of the Federal Water Pollution Control
19 Act (33 U.S.C. 1322); and

20 “(B) is located at a marina leased by the
21 Corps of Engineers; and

22 “(2) the Secretary has authorized the use of
23 recreational vessels on such waters.”; and

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

25 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—

1 “(1) IN GENERAL.—Nothing in this section
2 may be construed to authorize the Secretary to im-
3 pose requirements on a floating cabin or on any fa-
4 cility that serves a floating cabin, including marinas
5 or docks located on waters under the jurisdiction of
6 the Secretary in the Cumberland River basin, that
7 are different or more stringent than the require-
8 ments imposed on all recreational vessels authorized
9 to use such waters.

10 “(2) DEFINITIONS.—In this subsection, the fol-
11 lowing definitions apply:

12 “(A) VESSEL.—The term ‘vessel’ has the
13 meaning given that term in section 3 of title 1,
14 United States Code.

15 “(B) REQUIREMENT.—The term ‘require-
16 ment’ includes a requirement imposed through
17 the utilization of guidance.”.

18 **SEC. 1149. NO WAKE ZONES IN NAVIGATION CHANNELS.**

19 (a) IN GENERAL.—At the request of a State or local
20 official, the Secretary, in consultation with the Com-
21 mandant of the Coast Guard, shall promptly identify and,
22 subject to the considerations in subsection (b), allow the
23 implementation of measures for addressing navigation
24 safety hazards in a covered navigation channel resulting
25 from wakes created by recreational vessels identified by

1 such official, while maintaining the navigability of the
2 channel.

3 (b) CONSIDERATIONS.—In identifying measures
4 under subsection (a) with respect to a covered navigation
5 channel, the Secretary shall consider, at a minimum,
6 whether—

7 (1) State or local law enforcement officers have
8 documented the existence of safety hazards in the
9 channel that are the direct result of excessive wakes
10 from recreational vessels present in the channel;

11 (2) the Secretary has made a determination
12 that safety concerns exist in the channel and that
13 the proposed measures will remedy those concerns
14 without significant impacts to the navigable capacity
15 of the channel; and

16 (3) the measures are consistent with any rec-
17 ommendations made by the Commandant of the
18 Coast Guard to ensure the safety of vessels oper-
19 ating in the channel and the safety of the passengers
20 and crew aboard such vessels.

21 (c) COVERED NAVIGATION CHANNEL DEFINED.—In
22 this section, the term “covered navigation channel” means
23 a navigation channel that—

24 (1) is federally marked or maintained;

1 (2) is part of the Atlantic Intracoastal Water-
2 way; and

3 (3) is adjacent to a marina.

4 (d) SAVINGS CLAUSE.—Nothing in this section shall
5 be construed to relieve the master, pilot, or other person
6 responsible for determining the speed of a vessel from the
7 obligation to comply with the inland navigation regulations
8 promulgated pursuant to section 3 of the Inland Naviga-
9 tional Rules Act of 1980 (33 U.S.C. 2071) or any other
10 applicable laws or regulations governing the safe naviga-
11 tion of a vessel.

12 **SEC. 1150. ICE JAM PREVENTION AND MITIGATION.**

13 (a) IN GENERAL.—The Secretary may carry out
14 projects under section 205 of the Flood Control Act of
15 1948 (33 U.S.C. 701s), including planning, design, con-
16 struction, and monitoring of structural and nonstructural
17 technologies and measures, for preventing and mitigating
18 flood damages associated with ice jams.

19 (b) INCLUSION.—The projects described in sub-
20 section (a) may include the development and demonstra-
21 tion of cost-effective technologies and designs developed in
22 consultation with—

23 (1) the Cold Regions Research and Engineering
24 Laboratory of the Corps of Engineers;

25 (2) universities;

- 1 (3) Federal, State, and local agencies; and
2 (4) private organizations.

3 (c) PILOT PROGRAM.—

4 (1) IN GENERAL.—During fiscal years 2017
5 through 2022, the Secretary shall identify and carry
6 out not fewer than 10 projects under this section to
7 demonstrate technologies and designs developed in
8 accordance with this section.

9 (2) PROJECT SELECTION.—The Secretary shall
10 ensure that the projects are selected from all cold re-
11 gions of the United States, including the Upper Mis-
12 souri River Basin and the Northeast.

13 **SEC. 1151. STRUCTURAL HEALTH MONITORING.**

14 (a) IN GENERAL.—The Secretary shall design and
15 develop a structural health monitoring program to assess
16 and improve the condition of infrastructure constructed
17 and maintained by the Corps of Engineers, including re-
18 search, design, and development of systems and frame-
19 works for—

- 20 (1) response to flood and earthquake events;
21 (2) predisaster mitigation measures;
22 (3) lengthening the useful life of the infrastruc-
23 ture; and
24 (4) identifying risks due to sea level rise.

1 (b) CONSULTATION AND CONSIDERATIONS.—In de-
2 veloping the program under subsection (a), the Secretary
3 shall—

4 (1) consult with academic and other experts;

5 and

6 (2) consider models for maintenance and repair
7 information, the development of degradation models
8 for real-time measurements and environmental in-
9 puts, and research on qualitative inspection data as
10 surrogate sensors.

11 **SEC. 1152. KENNEWICK MAN.**

12 (a) DEFINITIONS.—In this section, the following defi-
13 nitions apply:

14 (1) CLAIMANT TRIBES.—The term “claimant
15 tribes” means the Confederated Tribes of the
16 Colville Reservation, the Confederated Tribes and
17 Bands of the Yakama Nation, the Nez Perce Tribe,
18 the Confederated Tribes of the Umatilla Indian Res-
19 ervation, and the Wanapum Band of Priest Rapids.

20 (2) DEPARTMENT.—The term “Department”
21 means the Washington State Department of Archae-
22 ology and Historic Preservation.

23 (3) HUMAN REMAINS.—The term “human re-
24 mains” means the human remains that—

1 (A) are known as Kennewick Man or the
2 Ancient One, which includes the projectile point
3 lodged in the right ilium bone, as well as any
4 residue from previous sampling and studies;
5 and

6 (B) are part of archaeological collection
7 number 45BN495.

8 (b) TRANSFER.—Notwithstanding any other provi-
9 sion of Federal law, including the Native American Graves
10 Protection and Repatriation Act (25 U.S.C. 3001 et seq.),
11 or law of the State of Washington, not later than 90 days
12 after the date of enactment of this Act, the Secretary, act-
13 ing through the Chief of Engineers, shall transfer the
14 human remains to the Department, on the condition that
15 the Department, acting through the State Historic Preser-
16 vation Officer, disposes of the human remains and repatri-
17 ates the human remains to the claimant tribes.

18 (c) TERMS AND CONDITIONS.—The transfer shall be
19 subject to the following terms and conditions:

20 (1) The release of the human remains to the
21 claimant tribes is contingent upon the claimant
22 tribes following the Department's requirements in
23 the Revised Code of Washington.

1 (2) The claimant tribes verify to the Depart-
2 ment their agreement on the final burial place of the
3 human remains.

4 (3) The claimant tribes verify to the Depart-
5 ment their agreement that the human remains will
6 be buried in the State of Washington.

7 (4) The claimant tribes verify to the Depart-
8 ment their agreement that the Department will take
9 legal custody of the human remains upon the trans-
10 fer by the Secretary.

11 (d) COST.—The Corps of Engineers shall be respon-
12 sible for any costs associated with the transfer.

13 (e) LIMITATIONS.—

14 (1) IN GENERAL.—The transfer shall be limited
15 solely to the human remains portion of the archae-
16 ological collection.

17 (2) SECRETARY.—The Secretary shall have no
18 further responsibility for the human remains trans-
19 ferred pursuant to subsection (b) after the date of
20 the transfer.

21 **SEC. 1153. AUTHORITY TO ACCEPT AND USE MATERIALS**
22 **AND SERVICES.**

23 Section 1024 of the Water Resources Reform and De-
24 velopment Act of 2014 (33 U.S.C. 2325a) is amended—

1 (1) by striking subsection (a) and inserting the
2 following:

3 “(a) IN GENERAL.—Subject to subsection (b), the
4 Secretary is authorized to accept and use materials, serv-
5 ices, or funds contributed by a non-Federal public entity,
6 a nonprofit entity, or a private entity to repair, restore,
7 replace, or maintain a water resources project in any case
8 in which the District Commander determines that—

9 “(1) there is a risk of adverse impacts to the
10 functioning of the project for the authorized pur-
11 poses of the project; and

12 “(2) acceptance of the materials and services or
13 funds is in the public interest.”;

14 (2) by redesignating subsection (c) as sub-
15 section (d);

16 (3) by inserting after subsection (b) the fol-
17 lowing:

18 “(c) ADDITIONAL REQUIREMENTS.—

19 “(1) APPLICABLE LAWS AND REGULATIONS.—
20 The Secretary may only use materials or services ac-
21 cepted under this section if such materials and serv-
22 ices comply with all applicable laws and regulations
23 that would apply if such materials and services were
24 acquired by the Secretary.

1 “(2) SUPPLEMENTARY SERVICES.—The Sec-
2 retary may only accept and use services under this
3 section that provide supplementary services to exist-
4 ing Federal employees, and may only use such serv-
5 ices to perform work that would not otherwise be ac-
6 complished as a result of funding or personnel limi-
7 tations.”; and

8 (4) in subsection (d) (as redesignated by para-
9 graph (2)) in the matter preceding paragraph (1)—

10 (A) by striking “Not later than 60 days
11 after initiating an activity under this section,”
12 and inserting “Not later than February 1 of
13 each year after the first fiscal year in which
14 materials, services, or funds are accepted under
15 this section,”; and

16 (B) by striking “a report” and inserting
17 “an annual report”.

18 **SEC. 1154. MUNITIONS DISPOSAL.**

19 Section 1027 of the Water Resources Reform and De-
20 velopment Act of 2014 (33 U.S.C. 426e–2) is amended—

21 (1) in subsection (a), in the matter preceding
22 paragraph (1), by inserting “, at full Federal ex-
23 pense,” after “The Secretary may”; and

24 (2) in subsection (b) by striking “funded” and
25 inserting “reimbursed”.

1 **SEC. 1155. MANAGEMENT OF RECREATION FACILITIES.**

2 Section 225 of the Water Resources Development Act
3 of 1992 (33 U.S.C. 2328) is amended—

4 (1) by redesignating subsection (c) as sub-
5 section (d); and

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

8 “(c) USER FEES.—

9 “(1) COLLECTION OF FEES.—

10 “(A) IN GENERAL.—The Secretary may
11 allow a non-Federal public entity that has en-
12 tered into an agreement pursuant to subsection
13 (b) to collect user fees for the use of developed
14 recreation sites and facilities, whether developed
15 or constructed by that entity or the Department
16 of the Army.

17 “(B) USE OF VISITOR RESERVATION SERV-
18 ICES.—A non-Federal public entity described in
19 subparagraph (A) may use, to manage fee col-
20 lections and reservations under this section, any
21 visitor reservation service that the Secretary
22 has provided for by contract or interagency
23 agreement, subject to such terms and condi-
24 tions as the Secretary determines to be appro-
25 priate.

1 “(2) USE OF FEES.—A non-Federal public enti-
2 ty that collects user fees under paragraph (1)—

3 “(A) may retain up to 100 percent of the
4 fees collected, as determined by the Secretary;
5 and

6 “(B) notwithstanding section 210(b)(4) of
7 the Flood Control Act of 1968 (16 U.S.C.
8 460d–3(b)(4)), shall use any retained amount
9 for operation, maintenance, and management
10 activities at the recreation site at which the fee
11 is collected.

12 “(3) TERMS AND CONDITIONS.—The authority
13 of a non-Federal public entity under this subsection
14 shall be subject to such terms and conditions as the
15 Secretary determines necessary to protect the inter-
16 ests of the United States.”.

17 **SEC. 1156. STRUCTURES AND FACILITIES CONSTRUCTED**
18 **BY SECRETARY.**

19 (a) IN GENERAL.—Section 14 of the Act of March
20 3, 1899 (30 Stat. 1152, chapter 425; 33 U.S.C. 408), is
21 amended—

22 (1) by striking “That it shall not be lawful”
23 and inserting the following:

24 “(a) PROHIBITIONS AND PERMISSIONS.—It shall not
25 be lawful”; and

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

2 “(b) CONCURRENT REVIEW.—

3 “(1) NEPA REVIEW.—

4 “(A) IN GENERAL.—In any case in which
5 an activity subject to this section requires a re-
6 view under the National Environmental Policy
7 Act of 1969 (42 U.S.C. 4321 et seq.), review
8 and approval of the activity under this section
9 shall, to the maximum extent practicable, occur
10 concurrently with any review and decisions
11 made under that Act.

12 “(B) CORPS OF ENGINEERS AS A COOPER-
13 ATING AGENCY.—If the Corps of Engineers is
14 not the lead Federal agency for an environ-
15 mental review described in subparagraph (A),
16 the Corps of Engineers shall, to the maximum
17 extent practicable and consistent with Federal
18 laws—

19 “(i) participate in the review as a co-
20 operating agency (unless the Corps of En-
21 gineers does not intend to submit com-
22 ments on the project); and

23 “(ii) adopt and use any environmental
24 document prepared under the National En-
25 vironmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.) by the lead agency to the
2 same extent that a Federal agency could
3 adopt or use a document prepared by an-
4 other Federal agency under—

5 “(I) the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321
7 et seq.); and

8 “(II) parts 1500 through 1508 of
9 title 40, Code of Federal Regulations
10 (or successor regulations).

11 “(2) **REVIEWS BY SECRETARY.**—In any case in
12 which the Secretary must approve an action under
13 this section and under another authority, including
14 sections 9 and 10 of this Act, section 404 of the
15 Federal Water Pollution Control Act (33 U.S.C.
16 1344), and section 103 of the Marine Protection,
17 Research, and Sanctuaries Act of 1972 (33 U.S.C.
18 1413), the Secretary shall—

19 “(A) coordinate applicable reviews and, to
20 the maximum extent practicable, carry out the
21 reviews concurrently; and

22 “(B) adopt and use any document pre-
23 pared by the Corps of Engineers for the pur-
24 pose of complying with the same law and that
25 addresses the same types of impacts in the

1 same geographic area if such document, as de-
2 termined by the Secretary, is current and appli-
3 cable.

4 “(3) CONTRIBUTED FUNDS.—The Secretary
5 may accept and expend funds received from non-
6 Federal public or private entities to evaluate under
7 this section an alteration or permanent occupation
8 or use of a work built by the United States.

9 “(c) TIMELY REVIEW.—

10 “(1) COMPLETE APPLICATION.—On or before
11 the date that is 30 days after the date on which the
12 Secretary receives an application for permission to
13 take action affecting public projects pursuant to sub-
14 section (a), the Secretary shall inform the applicant
15 whether the application is complete and, if it is not,
16 what items are needed for the application to be com-
17 plete.

18 “(2) DECISION.—On or before the date that is
19 90 days after the date on which the Secretary re-
20 ceives a complete application for permission under
21 subsection (a), the Secretary shall—

22 “(A) make a decision on the application; or

23 “(B) provide a schedule to the applicant
24 identifying when the Secretary will make a deci-
25 sion on the application.

1 “(3) NOTIFICATION TO CONGRESS.—In any
2 case in which a schedule provided under paragraph
3 (2)(B) extends beyond 120 days from the date of re-
4 ceipt of a complete application, the Secretary shall
5 provide to the Committee on Environment and Pub-
6 lic Works of the Senate and the Committee on
7 Transportation and Infrastructure of the House of
8 Representatives an explanation justifying the ex-
9 tended timeframe for review.”.

10 (b) GUIDANCE.—Section 1007 of the Water Re-
11 sources Reform and Development Act of 2014 (33 U.S.C.
12 408a) is amended by adding at the end the following:

13 “(f) GUIDANCE.—

14 “(1) IN GENERAL.—Not later than 120 days
15 after the date of enactment of this subsection, the
16 Secretary shall issue guidance on the implementation
17 of this section.

18 “(2) INCORPORATION.—In issuing guidance
19 under paragraph (1), or any other regulation, guid-
20 ance, or engineering circular related to activities cov-
21 ered under section 14 of the Act of March 3, 1899
22 (30 Stat. 1152, chapter 425; 33 U.S.C. 408), the
23 Secretary shall incorporate the requirements under
24 this section.

1 “(g) PRIORITIZATION.—The Secretary shall prioritize
2 and complete the activities required of the Secretary under
3 this section.”.

4 **SEC. 1157. PROJECT COMPLETION.**

5 (a) COMPLETION OF PROJECTS AND PROGRAMS.—

6 (1) IN GENERAL.—For any project or program
7 of assistance authorized under section 219 of the
8 Water Resources Development Act of 1992 (Public
9 Law 102–580; 106 Stat. 4835), the Secretary is au-
10 thORIZED to carry out the project to completion if—

11 (A) as of the date of enactment of this
12 Act, the project has received more than
13 \$4,000,000 in Federal appropriations and those
14 appropriations equal an amount that is greater
15 than 80 percent of the authorized amount;

16 (B) as of the date of enactment of this
17 Act, significant progress has been demonstrated
18 toward completion of the project or segments of
19 the project but the project is not complete; and

20 (C) the benefits of the Federal investment
21 will not be realized without completion of the
22 project.

23 (2) AUTHORIZATION OF APPROPRIATIONS.—

24 There is authorized to be appropriated to the Sec-

1 retary to carry out this subsection \$50,000,000 for
2 fiscal years 2017 through 2021.

3 (b) MODIFICATION OF PROJECTS OR PROGRAMS OF
4 ASSISTANCE.—Section 7001(f) of the Water Resources
5 Reform and Development Act of 2014 (33 U.S.C.
6 2282d(f)) is amended by adding at the end the following:
7 “(5) WATER RESOURCES DEVELOPMENT
8 PROJECT.—The term ‘water resources development
9 project’ includes a project under an environmental
10 infrastructure assistance program if authorized be-
11 fore the date of enactment of the Water Resources
12 Development Act of 2016.”.

13 **SEC. 1158. NEW ENGLAND DISTRICT HEADQUARTERS.**

14 (a) IN GENERAL.—Subject to subsection (b), using
15 amounts available in the revolving fund established by the
16 first section of the Act of July 27, 1953 (67 Stat. 199,
17 chapter 245; 33 U.S.C. 576), and not otherwise obligated,
18 the Secretary may—

19 (1) design, renovate, and construct additions to
20 2 buildings located on Hanscom Air Force Base in
21 Bedford, Massachusetts, for the headquarters of the
22 New England District of the Corps of Engineers;
23 and

24 (2) carry out such construction and infrastruc-
25 ture improvements as are required to support the

1 headquarters of the New England District of the
2 Corps of Engineers, including any necessary demoli-
3 tion of the existing infrastructure.

4 (b) REQUIREMENT.—In carrying out subsection (a),
5 the Secretary shall ensure that the revolving fund estab-
6 lished by such first section is appropriately reimbursed
7 from funds appropriated for programs that receive a ben-
8 efit under this section.

9 **SEC. 1159. BUFFALO DISTRICT HEADQUARTERS.**

10 (a) IN GENERAL.—Subject to subsection (b), using
11 amounts available in the revolving fund established by the
12 first section of the Act of July 27, 1953 (67 Stat. 199,
13 chapter 245; 33 U.S.C. 576), and not otherwise obligated,
14 the Secretary may—

15 (1) design and construct a new building in Buf-
16 falo, New York, for the headquarters of the Buffalo
17 District of the Corps of Engineers; and

18 (2) carry out such construction and infrastruc-
19 ture improvements as are required to support the
20 headquarters and related installations and facilities
21 of the Buffalo District of the Corps of Engineers, in-
22 cluding any necessary demolition or renovation of
23 the existing infrastructure.

24 (b) REQUIREMENT.—In carrying out subsection (a),
25 the Secretary shall ensure that the revolving fund estab-

1 lished by such first section is appropriately reimbursed
2 from funds appropriated for programs that receive a ben-
3 efit under this section.

4 **SEC. 1160. FUTURE FACILITY INVESTMENT.**

5 The first section of the Act of July 27, 1953 (67 Stat.
6 199, chapter 245; 33 U.S.C. 576), is amended—

7 (1) by striking “For establishment of a revolv-
8 ing fund” and inserting the following:

9 “(a) REVOLVING FUND.—For establishment of a re-
10 volving fund”; and

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

12 “(b) PROHIBITION.—

13 “(1) IN GENERAL.—No funds may be expended
14 or obligated from the revolving fund described in
15 subsection (a) to newly construct, or perform a
16 major renovation on, a building for use by the Corps
17 of Engineers unless specifically authorized by law.

18 “(2) STATUTORY CONSTRUCTION.—Nothing in
19 this subsection may be construed to—

20 “(A) change any authority provided under
21 subchapter I of chapter 169 of title 10; or

22 “(B) change the use of funds under sub-
23 section (a) for purposes other than those de-
24 scribed in paragraph (1).

1 “(c) TRANSMISSION TO CONGRESS OF PRO-
2 SPECTUS.—To secure consideration for an authorization
3 under subsection (b), the Secretary shall transmit to the
4 Committee on Transportation and Infrastructure of the
5 House of Representative and the Committee on Environ-
6 ment and Public Works of the Senate a prospectus of the
7 proposed construction or major renovation of a building
8 that includes—

9 “(1) a brief description of the building;

10 “(2) the location of the building;

11 “(3) an estimate of the maximum cost to be
12 provided by the revolving fund for the building to be
13 constructed or renovated;

14 “(4) the total size of the building after the pro-
15 posed construction or major renovation;

16 “(5) the number of personnel proposed to be
17 housed in the building after the construction or
18 major renovation;

19 “(6) a statement that other suitable space
20 owned by the Federal Government is not available;

21 “(7) a statement of rents and other housing
22 costs currently being paid for the tenants proposed
23 to be housed in the building; and

24 “(8) the size of the building currently housing
25 the tenants proposed to be housed in the building.

1 “(d) PROVISION OF BUILDING PROJECT SURVEYS.—

2 “(1) IN GENERAL.—If requested by resolution
3 by the Committee on Environment and Public
4 Works of the Senate or the Committee on Transpor-
5 tation and Infrastructure of the House of Represent-
6 atives, the Secretary shall create a building project
7 survey for the construction or major renovation of a
8 building described in subsection (b).

9 “(2) REPORT.—Within a reasonable time after
10 creating a building project survey under paragraph
11 (1), the Secretary shall submit to Congress a report
12 on the survey that includes the information required
13 to be included in a prospectus under subsection (c).

14 “(e) MAJOR RENOVATION DEFINED.—In this sec-
15 tion, the term ‘major renovation’ means a renovation or
16 alteration of a building for use by the Corps of Engineers
17 with a total expenditure of more than \$20,000,000.”.

18 **SEC. 1161. COMPLETION OF ECOSYSTEM RESTORATION**
19 **PROJECTS.**

20 Section 2039 of the Water Resources Development
21 Act of 2007 (33 U.S.C. 2330a) is amended by adding at
22 the end the following:

23 “(d) INCLUSIONS.—A monitoring plan under sub-
24 section (b) shall include a description of—

1 “(1) the types and number of restoration activi-
2 ties to be conducted;

3 “(2) the physical action to be undertaken to
4 achieve the restoration objectives of the project;

5 “(3) the functions and values that will result
6 from the restoration plan; and

7 “(4) a contingency plan for taking corrective
8 actions in cases in which monitoring demonstrates
9 that restoration measures are not achieving ecologi-
10 cal success in accordance with criteria described in
11 the monitoring plan.

12 “(e) CONCLUSION OF OPERATION AND MAINTEN-
13 NANCE RESPONSIBILITY.—The responsibility of a non-
14 Federal interest for operation and maintenance of the
15 nonstructural and nonmechanical elements of a project, or
16 a component of a project, for ecosystem restoration shall
17 cease 10 years after the date on which the Secretary
18 makes a determination of success under subsection (b)(2).

19 “(f) FEDERAL OBLIGATIONS.—The Secretary is not
20 responsible for the operation or maintenance of any com-
21 ponents of a project with respect to which a non-Federal
22 interest is released from obligations under subsection
23 (e).”.

1 **SEC. 1162. FISH AND WILDLIFE MITIGATION.**

2 Section 906 of the Water Resources Development Act
3 of 1986 (33 U.S.C. 2283) is amended—

4 (1) in subsection (h)—

5 (A) in paragraph (4)—

6 (i) by redesignating subparagraphs
7 (D) and (E) as subparagraphs (E) and
8 (F), respectively; and

9 (ii) by inserting after subparagraph
10 (C) the following:

11 “(D) include measures to protect or re-
12 store habitat connectivity;”;

13 (B) in paragraph (6)(C) by striking “im-
14 pacts” and inserting “impacts, including im-
15 pacts to habitat connectivity”; and

16 (C) by striking paragraph (11) and insert-
17 ing the following:

18 “(11) EFFECT.—Nothing in this subsection—

19 “(A) requires the Secretary to undertake
20 additional mitigation for existing projects for
21 which mitigation has already been initiated, in-
22 cluding the addition of fish passage to an exist-
23 ing water resources development project; or

24 “(B) affects the mitigation responsibilities
25 of the Secretary under any other provision of
26 law.”; and

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

2 “(j) USE OF FUNDS.—

3 “(1) IN GENERAL.—The Secretary, with the
4 consent of the applicable non-Federal interest, may
5 use funds made available for preconstruction engi-
6 neering and design after authorization of project
7 construction to satisfy mitigation requirements
8 through third-party arrangements or to acquire in-
9 terests in land necessary for meeting mitigation re-
10 quirements under this section.

11 “(2) NOTIFICATION.—Prior to the expenditure
12 of any funds for a project pursuant to paragraph
13 (1), the Secretary shall notify the Committee on Ap-
14 propriations and the Committee on Transportation
15 and Infrastructure of the House of Representatives
16 and the Committee on Appropriations and the Com-
17 mittee on Environment and Public Works of the
18 Senate.

19 “(k) MEASURES.—The Secretary shall consult with
20 interested members of the public, the Director of the
21 United States Fish and Wildlife Service, the Assistant Ad-
22 ministrator for Fisheries of the National Oceanic and At-
23 mospheric Administration, States, including State fish and
24 game departments, and interested local governments to
25 identify standard measures under subsection (h)(6)(C)

1 that reflect the best available scientific information for
2 evaluating habitat connectivity.”.

3 **SEC. 1163. WETLANDS MITIGATION.**

4 Section 2036(c) of the Water Resources Development
5 Act of 2007 (33 U.S.C. 2317b) is amended to read as
6 follows:

7 “(c) MITIGATION BANKS AND IN-LIEU FEE AR-
8 RANGEMENTS.—

9 “(1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of the Water Resources
11 Development Act of 2016, the Secretary shall issue
12 implementation guidance that provides for the con-
13 sideration in water resources development feasibility
14 studies of the entire amount of potential in-kind
15 credits available at mitigation banks approved by the
16 Secretary and in-lieu fee programs with an approved
17 service area that includes the location of the pro-
18 jected impacts of the water resources development
19 project.

20 “(2) REQUIREMENTS.—All potential mitigation
21 bank and in-lieu fee credits that meet the criteria
22 under paragraph (1) shall be considered a reason-
23 able alternative for planning purposes if—

24 “(A) the applicable mitigation bank—

1 “(i) has an approved mitigation bank-
2 ing instrument; and

3 “(ii) has completed a functional anal-
4 ysis of the potential credits using the ap-
5 proved Corps of Engineers certified habitat
6 assessment model specific to the region;
7 and

8 “(B) the Secretary determines that the use
9 of such banks or in-lieu fee programs provide
10 reasonable assurance that the statutory (and
11 regulatory) mitigation requirements for a water
12 resources development project are met, includ-
13 ing monitoring or demonstrating mitigation
14 success.

15 “(3) EFFECT.—Nothing in this subsection—

16 “(A) modifies or alters any requirement for
17 a water resources development project to com-
18 ply with applicable laws or regulations, includ-
19 ing section 906 of the Water Resources Devel-
20 opment Act of 1986 (33 U.S.C. 2283); or

21 “(B) shall be construed as to limit mitiga-
22 tion alternatives or require the use of mitigation
23 banks or in-lieu fee programs.”.

1 **SEC. 1164. DEBRIS REMOVAL.**

2 Section 3 of the Act of March 2, 1945 (59 Stat. 23,
3 chapter 19; 33 U.S.C. 603a), is amended—

4 (1) by striking “\$1,000,000” and inserting
5 “\$5,000,000”;

6 (2) by striking “accumulated snags and other
7 debris” and inserting “accumulated snags, obstruc-
8 tions, and other debris located in or adjacent to a
9 Federal channel”; and

10 (3) by striking “or flood control” and inserting
11 “, flood control, or recreation”.

12 **SEC. 1165. DISPOSITION STUDIES.**

13 (a) IN GENERAL.—In carrying out a disposition
14 study for a project of the Corps of Engineers, including
15 a disposition study under section 216 of the Flood Control
16 Act of 1970 (33 U.S.C. 549a) or an assessment under
17 section 6002 of the Water Resources Reform and Develop-
18 ment Act of 2014 (Public Law 113–121; 128 Stat. 1349),
19 the Secretary shall consider the extent to which the prop-
20 erty concerned has economic, cultural, historic, or rec-
21 reational significance or impacts at the national, State, or
22 local level.

23 (b) COMPLETION OF ASSESSMENT AND INVEN-
24 TORY.—Not later than 1 year after the date of enactment
25 of this Act, the Secretary shall complete the assessment
26 and inventory required under section 6002(a) of the Water

1 Resources Reform and Development Act of 2014 (Public
2 Law 113–121; 128 Stat. 1349).

3 **SEC. 1166. TRANSFER OF EXCESS CREDIT.**

4 Section 1020(a) of the Water Resources Reform and
5 Development Act of 2014 (33 U.S.C. 2223(a)) is amend-
6 ed—

7 (1) by striking the subsection designation and
8 heading and all that follows through “Subject to
9 subsection (b)” and inserting the following:

10 “(a) APPLICATION OF CREDIT.—

11 “(1) IN GENERAL.—Subject to subsection (b)”;

12 and

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

14 “(2) APPLICATION PRIOR TO COMPLETION OF
15 PROJECT.—On request of a non-Federal interest, the
16 credit described in paragraph (1) may be applied
17 prior to completion of a study or project, if the cred-
18 it amount is verified by the Secretary.”.

19 **SEC. 1167. HURRICANE AND STORM DAMAGE REDUCTION.**

20 Section 3(c)(2)(B) of the Act of August 13, 1946 (60
21 Stat. 1056, chapter 960; 33 U.S.C. 426g(c)(2)(B)), is
22 amended by striking “\$5,000,000” and inserting
23 “\$10,000,000”.

1 **SEC. 1168. FISH HATCHERIES.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law, the Secretary may operate a fish hatchery for
4 the purpose of restoring a population of fish species lo-
5 cated in the region surrounding the fish hatchery that is
6 listed as a threatened species or an endangered species
7 under the Endangered Species Act of 1973 (16 U.S.C.
8 1531 et seq.) or a similar State law.

9 (b) COSTS.—A non-Federal entity, another Federal
10 agency, or a group of non-Federal entities or other Fed-
11 eral agencies shall be responsible for 100 percent of the
12 additional costs associated with managing a fish hatchery
13 for the purpose described in subsection (a) that are not
14 authorized as of the date of enactment of this Act for the
15 fish hatchery.

16 **SEC. 1169. SHORE DAMAGE PREVENTION OR MITIGATION.**

17 Section 111 of the River and Harbor Act of 1968
18 (33 U.S.C. 426i) is amended—

19 (1) in subsection (b) by striking “measures”
20 and all that follows through “project” and inserting
21 “measures, including a study, shall be cost-shared in
22 the same proportion as the cost-sharing provisions
23 applicable to construction of the project”; and

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

25 “(e) REIMBURSEMENT FOR FEASIBILITY STUDIES.—
26 Beginning on the date of enactment of this subsection, in

1 any case in which the Secretary implements a project
2 under this section, the Secretary shall reimburse or credit
3 the non-Federal interest for any amounts contributed for
4 the study evaluating the damage in excess of the non-Fed-
5 eral share of the costs, as determined under subsection
6 (b).”.

7 **SEC. 1170. ENHANCING LAKE RECREATION OPPORTUNI-**
8 **TIES.**

9 Section 3134 of the Water Resources Development
10 Act of 2007 (Public Law 110–114; 121 Stat. 1142) is
11 amended by striking subsection (e).

12 **SEC. 1171. CREDIT IN LIEU OF REIMBURSEMENT.**

13 Section 1022 of the Water Resources Reform and De-
14 velopment Act of 2014 (33 U.S.C. 2225) is amended—

15 (1) in subsection (a) by striking “that has been
16 constructed by a non-Federal interest under section
17 211 of the Water Resources Development Act of
18 1996 (33 U.S.C. 701b–13) before the date of enact-
19 ment of this Act” and inserting “for which a written
20 agreement with the Corps of Engineers for construc-
21 tion was finalized on or before December 31, 2014,
22 under section 211 of the Water Resources Develop-
23 ment Act of 1996 (33 U.S.C. 701b–13) (as it ex-
24 isted before the repeal made by section
25 1014(e)(3))”; and

1 (2) in subsection (b) by striking “share of the
2 cost of the non-Federal interest of carrying out
3 other flood damage reduction projects or studies”
4 and inserting “non-Federal share of the cost of car-
5 rying out other water resources development projects
6 or studies of the non-Federal interest”.

7 **SEC. 1172. EASEMENTS FOR ELECTRIC, TELEPHONE, OR**
8 **BROADBAND SERVICE FACILITIES.**

9 (a) **DEFINITION OF WATER RESOURCES DEVELOP-**
10 **MENT PROJECT.**—In this section, the term “water re-
11 sources development project” means a project under the
12 administrative jurisdiction of the Corps of Engineers that
13 is subject to part 327 of title 36, Code of Federal Regula-
14 tions (or successor regulations).

15 (b) **NO CONSIDERATION FOR EASEMENTS.**—The Sec-
16 retary may not collect consideration for an easement
17 across water resources development project land for the
18 electric, telephone, or broadband service facilities of non-
19 profit organizations eligible for financing under the Rural
20 Electrification Act of 1936 (7 U.S.C. 901 et seq.).

21 (c) **ADMINISTRATIVE EXPENSES.**—Nothing in this
22 section affects the authority of the Secretary under section
23 2695 of title 10, United States Code, or under section
24 9701 of title 31, United State Code, to collect funds to

1 cover reasonable administrative expenses incurred by the
2 Secretary.

3 **SEC. 1173. STUDY ON PERFORMANCE OF INNOVATIVE MA-**
4 **TERIALS.**

5 (a) INNOVATIVE MATERIAL DEFINED.—In this sec-
6 tion, the term “innovative material”, with respect to a
7 water resources development project, includes high per-
8 formance concrete formulations, geosynthetic materials,
9 advanced alloys and metals, reinforced polymer compos-
10 ites, including any coatings or other corrosion prevention
11 methods used in conjunction with such materials, and any
12 other material, as determined by the Secretary.

13 (b) STUDY.—

14 (1) IN GENERAL.—The Secretary shall offer to
15 enter into a contract with the Transportation Re-
16 search Board of the National Academy of Sciences—

17 (A) to develop a proposal to study the use
18 and performance of innovative materials in
19 water resources development projects carried
20 out by the Corps of Engineers; and

21 (B) after the opportunity for public com-
22 ment provided in accordance with subsection
23 (c), to carry out the study proposed under sub-
24 paragraph (A).

- 1 (2) CONTENTS.—The study under paragraph
2 (1) shall identify—
- 3 (A) the conditions that result in degrada-
4 tion of water resources infrastructure;
- 5 (B) the capabilities of innovative materials
6 in reducing degradation;
- 7 (C) any statutory, fiscal, regulatory, or
8 other barriers to the expanded successful use of
9 innovative materials;
- 10 (D) recommendations on including per-
11 formance-based requirements for the incorpora-
12 tion of innovative materials into the Unified Fa-
13 cilities Guide Specifications;
- 14 (E) recommendations on how greater use
15 of innovative materials could increase perform-
16 ance of an asset of the Corps of Engineers in
17 relation to extended service life;
- 18 (F) additional ways in which greater use of
19 innovative materials could empower the Corps
20 of Engineers to accomplish the goals of the
21 Strategic Plan for Civil Works of the Corps of
22 Engineers; and
- 23 (G) recommendations on any further re-
24 search needed to improve the capabilities of in-
25 novative materials in achieving extended service

1 life and reduced maintenance costs in water re-
2 sources development infrastructure.

3 (c) PUBLIC COMMENT.—After developing the study
4 proposal under subsection (b)(1)(A) and before carrying
5 out the study under subsection (b)(1)(B), the Secretary
6 shall provide an opportunity for public comment on the
7 study proposal.

8 (d) CONSULTATION.—In carrying out the study
9 under subsection (b)(1), the Secretary, at a minimum,
10 shall consult with relevant experts on engineering, environ-
11 mental, and industry considerations.

12 (e) REPORT TO CONGRESS.—Not later than 2 years
13 after the date of enactment of this Act, the Secretary shall
14 submit to Congress a report describing the results of the
15 study under subsection (b)(1).

16 **SEC. 1174. CONVERSION OF SURPLUS WATER AGREE-**
17 **MENTS.**

18 For the purposes of section 6 of the Act of December
19 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 708), in
20 any case in which a water supply agreement with a dura-
21 tion of 30 years or longer was predicated on water that
22 was surplus to a purpose and provided for the complete
23 payment of the actual investment costs of storage to be
24 used, and that purpose is no longer authorized as of the
25 date of enactment of this section, the Secretary shall pro-

1 vide to the non-Federal entity an opportunity to convert
2 the agreement to a permanent storage agreement in ac-
3 cordance with section 301 of the Water Supply Act of
4 1958 (43 U.S.C. 390b), with the same payment terms in-
5 corporated in the agreement.

6 **SEC. 1175. PROJECTS FUNDED BY THE INLAND WATERWAYS**
7 **TRUST FUND.**

8 Beginning on June 10, 2014, and ending on the date
9 of the completion of the project for navigation, Lower Ohio
10 River, Locks and Dams 52 and 53, Illinois and Kentucky,
11 authorized by section 3(a)(6) of the Water Resources De-
12 velopment Act of 1988 (102 Stat. 4013), section
13 1001(b)(2) of the Water Resources Development Act of
14 1986 (33 U.S.C. 579a(b)(2)) shall not apply to any
15 project authorized to receive funding from the Inland Wa-
16 terways Trust Fund established by section 9506(a) of the
17 Internal Revenue Code of 1986.

18 **SEC. 1176. REHABILITATION ASSISTANCE.**

19 Section 5 of the Act of August 18, 1941 (55 Stat.
20 650, chapter 377; 33 U.S.C. 701n), is amended—

21 (1) in subsection (a) by adding at the end the
22 following:

23 “(3) NONSTRUCTURAL ALTERNATIVES DE-
24 FINED.—In this subsection, the term ‘nonstructural
25 alternatives’ includes efforts to restore or protect

1 natural resources, including streams, rivers,
2 floodplains, wetlands, or coasts, if those efforts will
3 reduce flood risk.”; and

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

5 “(d) INCREASED LEVEL OF PROTECTION.—In con-
6 ducting repair or restoration work under subsection (a),
7 at the request of the non-Federal sponsor, the Chief of
8 Engineers may increase the level of protection above the
9 level to which the system was designed, or, if the repair
10 or restoration includes repair or restoration of a pumping
11 station, increase the capacity of a pump, if—

12 “(1) the Chief of Engineers determines the im-
13 provements are in the public interest, including con-
14 sideration of whether—

15 “(A) the authority under this section has
16 been used more than once at the same location;

17 “(B) there is an opportunity to decrease
18 significantly the risk of loss of life and property
19 damage; or

20 “(C) there is an opportunity to decrease
21 total life cycle rehabilitation costs for the
22 project; and

23 “(2) the non-Federal sponsor agrees to pay the
24 difference between the cost of repair or restoration
25 to the original design level or original capacity and

1 the cost of achieving the higher level of protection or
2 capacity sought by the non-Federal sponsor.

3 “(e) NOTICE.—The Secretary shall notify and consult
4 with the non-Federal sponsor regarding the opportunity
5 to request implementation of nonstructural alternatives to
6 the repair or restoration of a flood control work under sub-
7 section (a).”.

8 **SEC. 1177. REHABILITATION OF CORPS OF ENGINEERS**
9 **CONSTRUCTED DAMS.**

10 (a) IN GENERAL.—If the Secretary determines that
11 the project is feasible, the Secretary may carry out a
12 project for the rehabilitation of a dam described in sub-
13 section (b).

14 (b) ELIGIBLE DAMS.—A dam eligible for assistance
15 under this section is a dam—

16 (1) that has been constructed, in whole or in
17 part, by the Corps of Engineers for flood control
18 purposes;

19 (2) for which construction was completed before
20 1940;

21 (3) that is classified as “high hazard potential”
22 by the State dam safety agency of the State in
23 which the dam is located; and

24 (4) that is operated by a non-Federal entity.

1 (c) COST SHARING.—Non-Federal interests shall pro-
2 vide 35 percent of the cost of construction of any project
3 carried out under this section, including provision of all
4 land, easements, rights-of-way, and necessary relocations.

5 (d) AGREEMENTS.—Construction of a project under
6 this section shall be initiated only after a non-Federal in-
7 terest has entered into a binding agreement with the Sec-
8 retary—

9 (1) to pay the non-Federal share of the costs of
10 construction under subsection (c); and

11 (2) to pay 100 percent of any operation, main-
12 tenance, and replacement and rehabilitation costs
13 with respect to the project in accordance with regu-
14 lations prescribed by the Secretary.

15 (e) COST LIMITATION.—The Secretary shall not ex-
16 pend more than \$10,000,000 for a project at any single
17 dam under this section.

18 (f) FUNDING.—There is authorized to be appro-
19 priated to carry out this section \$10,000,000 for each of
20 fiscal years 2017 through 2026.

21 **SEC. 1178. COLUMBIA RIVER.**

22 (a) ECOSYSTEM RESTORATION.—Section 536(g) of
23 the Water Resources Development Act of 2000 (Public
24 Law 106–541; 114 Stat. 2662; 128 Stat. 1314) is amend-

1 ed by striking “\$50,000,000” and inserting
2 “\$75,000,000”.

3 (b) WATERCRAFT INSPECTION STATIONS.—Section
4 104 of the River and Harbor Act of 1958 (33 U.S.C. 610)
5 is amended—

6 (1) in subsection (d)—

7 (A) by striking paragraph (1) and insert-
8 ing the following:

9 “(1) IN GENERAL.—In carrying out this sec-
10 tion, the Secretary may establish, operate, and main-
11 tain new or existing watercraft inspection stations to
12 protect the Columbia River Basin to be located in
13 the States of Idaho, Montana, Oregon, and Wash-
14 ington at locations, as determined by the Secretary
15 in consultation with such States, with the highest
16 likelihood of preventing the spread of aquatic
17 invasive species at reservoirs operated and main-
18 tained by the Secretary. The Secretary shall also as-
19 sist the States referred to in this paragraph with
20 rapid response to any aquatic invasive species, in-
21 cluding quagga or zebra mussel, infestation.”; and

22 (B) in paragraph (3)(A) by inserting
23 “Governors of the” before “States”; and

24 (2) in subsection (e) by striking paragraph (3)
25 and inserting the following:

1 “(3) assist States in early detection of aquatic
2 invasive species, including quagga and zebra mus-
3 sels; and”.

4 (c) TRIBAL ASSISTANCE.—

5 (1) ASSISTANCE AUTHORIZED.—

6 (A) IN GENERAL.—Upon the request of
7 the Secretary of the Interior, the Secretary may
8 provide assistance on land transferred by the
9 Department of the Army to the Department of
10 the Interior pursuant to title IV of Public Law
11 100–581 (102 Stat. 2944; 110 Stat. 766; 110
12 Stat. 3762; 114 Stat. 2679; 118 Stat. 544) to
13 Indian tribes displaced as a result of the con-
14 struction of the Bonneville Dam, Oregon.

15 (B) CLARIFICATION.—

16 (i) IN GENERAL.—The Secretary is
17 authorized to provide the assistance de-
18 scribed in subparagraph (A) based on in-
19 formation known or studies undertaken by
20 the Secretary prior to the date of enact-
21 ment of this subsection.

22 (ii) ADDITIONAL STUDIES.—To the
23 extent that the Secretary determines nec-
24 essary, the Secretary is authorized to un-
25 dertake additional studies to further exam-

1 ine any impacts to Indian tribes identified
2 in subparagraph (A) beyond any informa-
3 tion or studies identified under clause (i),
4 except that the Secretary is authorized to
5 provide the assistance described in sub-
6 paragraph (A) based solely on information
7 known or studies undertaken by the Sec-
8 retary prior to the date of enactment of
9 this subsection.

10 (2) STUDY OF IMPACTS OF JOHN DAY DAM, OR-
11 EGON.—The Secretary shall—

12 (A) conduct a study to determine the num-
13 ber of Indian tribes displaced by the construc-
14 tion of the John Day Dam, Oregon; and

15 (B) recommend to the Committee on
16 Transportation and Infrastructure of the House
17 of Representatives and the Committee on Envi-
18 ronment and Public Works of the Senate a plan
19 to provide assistance to Indian tribes displaced
20 as a result of the construction of the John Day
21 Dam, Oregon.

22 **SEC. 1179. MISSOURI RIVER.**

23 (a) RESERVOIR SEDIMENT MANAGEMENT.—

24 (1) DEFINITION OF SEDIMENT MANAGEMENT
25 PLAN.—In this subsection, the term “sediment man-

1 agement plan” means a plan for preventing sedi-
2 ment from reducing water storage capacity at a res-
3 ervoir and increasing water storage capacity through
4 sediment removal at a reservoir.

5 (2) UPPER MISSOURI RIVER BASIN PILOT PRO-
6 GRAM.—The Secretary shall carry out a pilot pro-
7 gram for the development and implementation of
8 sediment management plans for reservoirs owned
9 and operated by the Secretary in the Upper Missouri
10 River Basin, on request by project beneficiaries.

11 (3) PLAN ELEMENTS.—A sediment manage-
12 ment plan under paragraph (2) shall—

13 (A) provide opportunities for project bene-
14 ficiaries and other stakeholders to participate in
15 sediment management decisions;

16 (B) evaluate the volume of sediment in a
17 reservoir and impacts on storage capacity;

18 (C) identify preliminary sediment manage-
19 ment options, including sediment dikes and
20 dredging;

21 (D) identify constraints;

22 (E) assess technical feasibility, economic
23 justification, and environmental impacts;

24 (F) identify beneficial uses for sediment;

25 and

1 (G) to the maximum extent practicable,
2 use, develop, and demonstrate innovative, cost-
3 saving technologies, including structural and
4 nonstructural technologies and designs, to man-
5 age sediment.

6 (4) COST SHARE.—The beneficiaries requesting
7 a sediment management plan shall share in the cost
8 of development and implementation of the plan and
9 such cost shall be allocated among the beneficiaries
10 in accordance with the benefits to be received.

11 (5) CONTRIBUTED FUNDS.—The Secretary may
12 accept funds from non-Federal interests and other
13 Federal agencies to develop and implement a sedi-
14 ment management plan under this subsection.

15 (6) GUIDANCE.—The Secretary shall use the
16 knowledge gained through the development and im-
17 plementation of sediment management plans under
18 paragraph (2) to develop guidance for sediment
19 management at other reservoirs.

20 (7) PARTNERSHIP WITH SECRETARY OF THE
21 INTERIOR.—

22 (A) IN GENERAL.—The Secretary shall
23 carry out the pilot program established under
24 this subsection in partnership with the Sec-
25 retary of the Interior, and the program may

1 apply to reservoirs managed or owned by the
2 Bureau of Reclamation on execution of a
3 memorandum of agreement between the Sec-
4 retary and the Secretary of the Interior estab-
5 lishing the framework for a partnership and the
6 terms and conditions for sharing expertise and
7 resources.

8 (B) LEAD AGENCY.—The Secretary that
9 has primary jurisdiction over a reservoir shall
10 take the lead in developing and implementing a
11 sediment management plan for that reservoir.

12 (8) OTHER AUTHORITIES NOT AFFECTED.—
13 Nothing in this subsection affects sediment manage-
14 ment or the share of costs paid by Federal and non-
15 Federal interests relating to sediment management
16 under any other provision of law (including regula-
17 tions).

18 (b) SNOWPACK AND DROUGHT MONITORING.—Sec-
19 tion 4003(a) of the Water Resources Reform and Develop-
20 ment Act of 2014 (Public Law 113–121; 128 Stat. 1310)
21 is amended by adding at the end the following:

22 “(5) LEAD AGENCY.—The Corps of Engineers
23 shall be the lead agency for carrying out and coordi-
24 nating the activities described in paragraph (1).”.

1 **SEC. 1180. CHESAPEAKE BAY OYSTER RESTORATION.**

2 Section 704(b)(1) of the Water Resources Develop-
3 ment Act of 1986 (33 U.S.C. 2263(b)(1)) is amended by
4 striking “\$60,000,000” and inserting “\$100,000,000”.

5 **SEC. 1181. SALTON SEA, CALIFORNIA.**

6 (a) IN GENERAL.—Section 3032 of the Water Re-
7 sources Development Act of 2007 (Public Law 110–114;
8 121 Stat. 1113) is amended—

9 (1) in the section heading by inserting “**PRO-**
10 **GRAM**” after “**RESTORATION**”;

11 (2) in subsection (b)—

12 (A) in the subsection heading by striking
13 “PILOT PROJECTS” and inserting “PROGRAM”;

14 (B) in paragraph (1)—

15 (i) by redesignating subparagraphs
16 (A) and (B) as subparagraphs (B) and
17 (C), respectively;

18 (ii) by inserting before subparagraph
19 (B) (as so redesignated) the following:

20 “(A) ESTABLISHMENT.—The Secretary
21 shall carry out a program to implement projects
22 to restore the Salton Sea in accordance with
23 this section.”;

24 (iii) in subparagraph (B) (as redesign-
25 ated by clause (i)) by striking “the pilot”;
26 and

1 (iv) in subparagraph (C)(i) (as reded-
2 ignated by clause (i))—

3 (I) in the matter preceding sub-
4 clause (I), by striking “the pilot
5 projects referred to in subparagraph
6 (A)” and inserting “the projects re-
7 ferred to in subparagraph (B)”;

8 (II) in subclause (I) by inserting
9 “, Salton Sea Authority, or other non-
10 Federal interest” before the semi-
11 colon; and

12 (III) in subclause (II) by striking
13 “pilot”;

14 (C) in paragraph (2), in the matter pre-
15 ceding subparagraph (A), by striking “pilot”;
16 and

17 (D) in paragraph (3)—

18 (i) by striking “pilot” each place it
19 appears; and

20 (ii) by inserting “, Salton Sea Author-
21 ity, or other non-Federal interest” after
22 “State”; and

23 (3) in subsection (c) by striking “pilot”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Water Resources Development Act

1 of 2007 (Public Law 110–114; 121 Stat. 1041) is amend-
2 ed by striking the item relating to section 3032 and insert-
3 ing the following:

“3032. Salton Sea restoration program, California.”.

4 **SEC. 1182. ADJUSTMENT.**

5 Section 219(f) of the Water Resources Development
6 Act of 1992 (Public Law 102–580) is amended—

7 (1) in paragraph (25) (113 Stat. 336)—

8 (A) by inserting “Berkeley,” before “Cal-
9 houn,”; and

10 (B) by striking “Orangeberg, and Sumter”
11 and inserting “and Orangeberg”; and

12 (2) in paragraph (78) (121 Stat. 1258)—

13 (A) in the paragraph heading by striking
14 “ST. CLAIR COUNTY,” and inserting “ST. CLAIR
15 COUNTY, BLOUNT COUNTY, AND CULLMAN
16 COUNTY,”; and

17 (B) by striking “St. Clair County,” and in-
18 serting “St. Clair County, Blount County, and
19 Cullman County,”.

20 **SEC. 1183. COASTAL ENGINEERING.**

21 (a) IN GENERAL.—Section 4014(b) of the Water Re-
22 sources Reform and Development Act of 2014 (33 U.S.C.
23 2803a(b)) is amended—

24 (1) in paragraph (1) by inserting “Indian
25 tribes,” after “nonprofit organizations,”;

1 (2) by redesignating paragraphs (3) and (4) as
2 paragraphs (4) and (5), respectively; and

3 (3) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) give priority to projects in communities the
6 existence of which is threatened by rising sea level,
7 including projects relating to shoreline restoration,
8 tidal marsh restoration, dunal habitats to protect
9 coastal infrastructure, reduction of future and exist-
10 ing emergency repair costs, and the beneficial reuse
11 of dredged materials;”.

12 (b) INTERAGENCY COORDINATION ON COASTAL RE-
13 SILIENCE.—

14 (1) IN GENERAL.—The Secretary shall convene
15 an interagency working group on resilience to ex-
16 treme weather, which will coordinate research, data,
17 and Federal investments related to sea level rise, re-
18 siliency, and vulnerability to extreme weather, in-
19 cluding coastal resilience.

20 (2) CONSULTATION.—The interagency working
21 group convened under paragraph (1) shall partici-
22 pate in any activity carried out by an organization
23 authorized by a State to study and issue rec-
24 ommendations on how to address the impacts on
25 Federal assets of recurrent flooding and sea level

1 rise, including providing consultation regarding poli-
2 cies, programs, studies, plans, and best practices re-
3 lating to recurrent flooding and sea level rise in
4 areas with significant Federal assets.

5 (c) REGIONAL ASSESSMENTS.—

6 (1) IN GENERAL.—The Secretary may conduct
7 regional assessments of coastal and back bay protec-
8 tion and of Federal and State policies and programs
9 related to coastal water resources, including—

10 (A) an assessment of the probability and
11 the extent of coastal flooding and erosion, in-
12 cluding back bay and estuarine flooding;

13 (B) recommendations for policies and other
14 measures related to regional Federal, State,
15 local, and private participation in shoreline and
16 back bay protection projects;

17 (C) an evaluation of the performance of ex-
18 isting Federal coastal storm damage reduction,
19 ecosystem restoration, and navigation projects,
20 including recommendations for the improvement
21 of those projects; and

22 (D) recommendations for the demonstra-
23 tion of methodologies for resilience through the
24 use of natural and nature-based infrastructure
25 approaches, as appropriate.

1 (2) COOPERATION.—In carrying out paragraph
2 (1), the Secretary shall cooperate with—

3 (A) heads of appropriate Federal agencies;

4 (B) States that have approved coastal
5 management programs and appropriate agen-
6 cies of those States;

7 (C) local governments; and

8 (D) the private sector.

9 (d) STREAMLINING.—In carrying out this section, the
10 Secretary shall—

11 (1) to the maximum extent practicable, use ex-
12 isting research done by Federal, State, regional,
13 local, and private entities to eliminate redundancies
14 and related costs;

15 (2) receive from any of the entities described in
16 subsection (c)(2)—

17 (A) contributed funds; or

18 (B) research that may be eligible for credit
19 as work-in-kind under applicable Federal law;
20 and

21 (3) enable each District or combination of Dis-
22 tricts of the Corps of Engineers that jointly partici-
23 pate in carrying out an assessment under this sec-
24 tion to consider regionally appropriate engineering,

1 biological, ecological, social, economic, and other fac-
2 tors in carrying out the assessment.

3 (e) REPORTS.—The Secretary shall submit in the
4 2019 annual report submitted to Congress in accordance
5 with section 8 of the Act of August 11, 1888 (25 Stat.
6 424, chapter 860; 33 U.S.C. 556), and section 925(b) of
7 the Water Resources Development Act of 1986 (33 U.S.C.
8 2295(b)) all reports and recommendations prepared under
9 this section, together with any necessary supporting docu-
10 mentation.

11 **SEC. 1184. CONSIDERATION OF MEASURES.**

12 (a) DEFINITIONS.—In this section, the following defi-
13 nitions apply:

14 (1) NATURAL FEATURE.—The term “natural
15 feature” means a feature that is created through the
16 action of physical, geological, biological, and chem-
17 ical processes over time.

18 (2) NATURE-BASED FEATURE.—The term “na-
19 ture-based feature” means a feature that is created
20 by human design, engineering, and construction to
21 provide risk reduction in coastal areas by acting in
22 concert with natural processes.

23 (b) REQUIREMENT.—In studying the feasibility of
24 projects for flood risk management, hurricane and storm
25 damage reduction, and ecosystem restoration the Sec-

1 retary shall, with the consent of the non-Federal sponsor
2 of the feasibility study, consider, as appropriate—

- 3 (1) natural features;
- 4 (2) nature-based features;
- 5 (3) nonstructural measures; and
- 6 (4) structural measures.

7 (c) REPORT TO CONGRESS.—

8 (1) IN GENERAL.—Not later than February 1,
9 2020, and 5 and 10 years thereafter, the Secretary
10 shall submit to the Committee on Environment and
11 Public Works of the Senate and the Committee on
12 Transportation and Infrastructure of the House of
13 Representatives a report on the implementation of
14 subsection (b).

15 (2) CONTENTS.—The report under paragraph
16 (1) shall include, at a minimum, the following:

17 (A) A description of guidance or instruc-
18 tions issued, and other measures taken, by the
19 Secretary and the Chief of Engineers to imple-
20 ment subsection (b).

21 (B) An assessment of the costs, benefits,
22 impacts, and trade-offs associated with meas-
23 ures recommended by the Secretary for coastal
24 risk reduction and the effectiveness of those
25 measures.

1 (C) A description of any statutory, fiscal,
2 or regulatory barriers to the appropriate consid-
3 eration and use of a full array of measures for
4 coastal risk reduction.

5 **SEC. 1185. TABLE ROCK LAKE, ARKANSAS AND MISSOURI.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, the Secretary—

8 (1) shall include a 60-day public comment pe-
9 riod for the Table Rock Lake Master Plan and
10 Table Rock Lake Shoreline Management Plan revi-
11 sion; and

12 (2) shall finalize the revision for the Table Rock
13 Lake Master Plan and Table Rock Lake Shoreline
14 Management Plan during the 2-year period begin-
15 ning on the date of enactment of this Act.

16 (b) SHORELINE USE PERMITS.—During the period
17 described in subsection (a)(2), the Secretary shall lift or
18 suspend the moratorium on the issuance of new, and modi-
19 fications to existing, shoreline use permits based on the
20 existing Table Rock Lake Master Plan and Table Rock
21 Lake Shoreline Management Plan.

22 (c) OVERSIGHT COMMITTEE.—

23 (1) IN GENERAL.—Not later than 120 days
24 after the date of enactment of this Act, the Sec-

1 retary shall establish an oversight committee (re-
2 ferred to in this subsection as the “Committee”).

3 (2) PURPOSES.—The purposes of the Com-
4 mittee shall be—

5 (A) to review any permit to be issued
6 under the existing Table Rock Lake Master
7 Plan at the recommendation of the District En-
8 gineer; and

9 (B) to advise the District Engineer on revi-
10 sions to the new Table Rock Lake Master Plan
11 and Table Rock Lake Shoreline Management
12 Plan.

13 (3) MEMBERSHIP.—The membership of the
14 Committee shall not exceed 6 members and shall in-
15 clude—

16 (A) not more than 1 representative each
17 from the State of Missouri and the State of Ar-
18 kansas;

19 (B) not more than 1 representative each
20 from local economic development organizations
21 with jurisdiction over Table Rock Lake; and

22 (C) not more than 1 representative each
23 representing the boating and conservation inter-
24 ests of Table Rock Lake.

25 (4) STUDY.—The Secretary shall—

1 (A) carry out a study on the need to revise
2 permit fees relating to Table Rock Lake to bet-
3 ter reflect the cost of issuing those permits and
4 achieve cost savings;

5 (B) submit to Congress a report on the re-
6 sults of the study described in subparagraph
7 (A); and

8 (C) begin implementation of a new permit
9 fee structure based on the findings of the study
10 described in subparagraph (A).

11 **SEC. 1186. RURAL WESTERN WATER.**

12 Section 595 of the Water Resources Development Act
13 of 1999 (Public Law 106–53; 113 Stat. 383; 128 Stat.
14 1316) is amended—

15 (1) by redesignating subsection (h) as sub-
16 section (i);

17 (2) by inserting after subsection (g) the fol-
18 lowing:

19 “(h) ELIGIBILITY.—

20 “(1) IN GENERAL.—Assistance under this sec-
21 tion shall be made available to all eligible States and
22 locales described in subsection (b) consistent with
23 program priorities determined by the Secretary in
24 accordance with criteria developed by the Secretary
25 to establish the program priorities.

1 “(2) SELECTION OF PROJECTS.—In selecting
2 projects for assistance under this section, the Sec-
3 retary shall give priority to a project located in an
4 eligible State or local entity for which the project
5 sponsor is prepared to—

6 “(A) execute a new or amended project co-
7 operation agreement; and

8 “(B) commence promptly after the date of
9 enactment of the Water Resources Development
10 Act of 2016.

11 “(3) RURAL PROJECTS.—The Secretary shall
12 consider a project authorized under this section and
13 an environmental infrastructure project authorized
14 under section 219 of the Water Resources Develop-
15 ment Act of 1992 (Public Law 102–580; 106 Stat.
16 4835) for new starts on the same basis as any other
17 similarly funded project.”; and

18 (3) in subsection (i) (as redesignated by para-
19 graph (1)) by striking “which shall—” and all that
20 follows through “remain” and inserting “to remain”.

21 **SEC. 1187. INTERSTATE COMPACTS.**

22 Section 301 of the Water Supply Act of 1958 (43
23 U.S.C. 390b) is amended by striking subsection (f).

24 **SEC. 1188. SENSE OF CONGRESS.**

25 It is the sense of Congress that—

1 (1) State water quality standards that impact
2 the disposal of dredged material should be developed
3 collaboratively, with input from all relevant stake-
4 holders;

5 (2) open-water disposal of dredged material
6 should be reduced to the maximum extent prac-
7 ticable; and

8 (3) where practicable, the preference is for dis-
9 putes between States related to the disposal of
10 dredged material and the protection of water quality
11 to be resolved between the States in accordance with
12 regional plans and with the involvement of regional
13 bodies.

14 **SEC. 1189. DREDGED MATERIAL DISPOSAL.**

15 Disposal of dredged material shall not be considered
16 environmentally acceptable for the purposes of identifying
17 the Federal standard (as defined in section 335.7 of title
18 33, Code of Federal Regulations (or successor regula-
19 tions)) if the disposal violates applicable State water qual-
20 ity standards approved by the Administrator of the Envi-
21 ronmental Protection Agency under section 303 of the
22 Federal Water Pollution Control Act (33 U.S.C. 1313).

1 **Subtitle B—Studies**

2 **SEC. 1201. AUTHORIZATION OF PROPOSED FEASIBILITY**
3 **STUDIES.**

4 The Secretary is authorized to conduct a feasibility
5 study for the following projects for water resources devel-
6 opment and conservation and other purposes, as identified
7 in the reports titled “Report to Congress on Future Water
8 Resources Development” submitted to Congress on Janu-
9 ary 29, 2015, and January 29, 2016, respectively, pursu-
10 ant to section 7001 of the Water Resources Reform and
11 Development Act of 2014 (33 U.S.C. 2282d) or otherwise
12 reviewed by Congress:

13 (1) OUACHITA-BLACK RIVERS, ARKANSAS AND
14 LOUISIANA.—Project for navigation, Ouachita-Black
15 Rivers, Arkansas and Louisiana.

16 (2) CACHE CREEK SETTling BASIN, CALI-
17 FORNIA.—Project for flood damage reduction and
18 ecosystem restoration, Cache Creek Settling Basin,
19 California.

20 (3) COYOTE VALLEY DAM, CALIFORNIA.—
21 Project for flood control, water conservation, and re-
22 lated purposes, Russian River Basin, California, au-
23 thorized by the River and Harbor Act of 1950 (64
24 Stat. 177), to modify the Coyote Valley Dam to add
25 environmental restoration as a project purpose and

1 to increase water supply and improve reservoir oper-
2 ations.

3 (4) DEL ROSA CHANNEL, CITY OF SAN
4 BERNARDINO, CALIFORNIA.—Project for flood dam-
5 age reduction and ecosystem restoration, Del Rosa
6 Channel, city of San Bernardino, California.

7 (5) MERCED COUNTY STREAMS, CALIFORNIA.—
8 Project for flood damage reduction, Merced County
9 Streams, California.

10 (6) MISSION-ZANJA CHANNEL, CITIES OF SAN
11 BERNARDINO AND REDLANDS, CALIFORNIA.—Project
12 for flood damage reduction and ecosystem restora-
13 tion, Mission-Zanja Channel, cities of San
14 Bernardino and Redlands, California.

15 (7) SOBOBA INDIAN RESERVATION, CALI-
16 FORNIA.—Project for flood damage reduction,
17 Soboba Indian Reservation, California.

18 (8) INDIAN RIVER INLET, DELAWARE.—Project
19 for hurricane and storm damage reduction, Indian
20 River Inlet, Delaware.

21 (9) LEWES BEACH, DELAWARE.—Project for
22 hurricane and storm damage reduction, Lewes
23 Beach, Delaware.

24 (10) MISPELLION COMPLEX, KENT AND SUSSEX
25 COUNTIES, DELAWARE.—Project for hurricane and

1 storm damage reduction, Mispillion Complex, Kent
2 and Sussex Counties, Delaware.

3 (11) DAYTONA BEACH, FLORIDA.—Project for
4 flood damage reduction, Daytona Beach, Florida.

5 (12) BRUNSWICK HARBOR, GEORGIA.—Project
6 for navigation, Brunswick Harbor, Georgia.

7 (13) DUBUQUE, IOWA.—Project for flood dam-
8 age reduction, Dubuque, Iowa.

9 (14) ST. TAMMANY PARISH, LOUISIANA.—
10 Project for flood damage reduction and ecosystem
11 restoration, St. Tammany Parish, Louisiana.

12 (15) CATTARAUGUS CREEK, NEW YORK.—
13 Project for flood damage reduction, Cattaraugus
14 Creek, New York.

15 (16) CAYUGA INLET, ITHACA, NEW YORK.—
16 Project for navigation and flood damage reduction,
17 Cayuga Inlet, Ithaca, New York.

18 (17) DELAWARE RIVER BASIN, NEW YORK, NEW
19 JERSEY, PENNSYLVANIA, AND DELAWARE.—Projects
20 for flood control, Delaware River Basin, New York,
21 New Jersey, Pennsylvania, and Delaware, authorized
22 by section 408 of the Act of July 24, 1946 (60 Stat.
23 644, chapter 596), and section 203 of the Flood
24 Control Act of 1962 (76 Stat. 1182), to review oper-

1 ations of the projects to enhance opportunities for
2 ecosystem restoration and water supply.

3 (18) SILVER CREEK, HANOVER, NEW YORK.—
4 Project for flood damage reduction and ecosystem
5 restoration, Silver Creek, Hanover, New York.

6 (19) STONYCREEK AND LITTLE CONEMAUGH
7 RIVERS, PENNSYLVANIA.—Project for flood damage
8 reduction and recreation, Stonycreek and Little
9 Conemaugh Rivers, Pennsylvania.

10 (20) TIOGA-HAMMOND LAKE, PENNSYLVANIA.—
11 Project for ecosystem restoration, Tioga-Hammond
12 Lake, Pennsylvania.

13 (21) BRAZOS RIVER, FORT BEND COUNTY,
14 TEXAS.—Project for flood damage reduction in the
15 vicinity of the Brazos River, Fort Bend County,
16 Texas.

17 (22) CHACON CREEK, CITY OF LAREDO,
18 TEXAS.—Project for flood damage reduction, eco-
19 system restoration, and recreation, Chacon Creek,
20 city of Laredo, Texas.

21 (23) CORPUS CHRISTI SHIP CHANNEL,
22 TEXAS.—Project for navigation, Corpus Christi Ship
23 Channel, Texas.

24 (24) CITY OF EL PASO, TEXAS.—Project for
25 flood damage reduction, city of El Paso, Texas.

1 (25) GULF INTRACOASTAL WATERWAY,
2 BRAZORIA AND MATAGORDA COUNTIES, TEXAS.—
3 Project for navigation and hurricane and storm
4 damage reduction, Gulf Intracoastal Waterway,
5 Brazoria and Matagorda Counties, Texas.

6 (26) PORT OF BAY CITY, TEXAS.—Project for
7 navigation, Port of Bay City, Texas.

8 (27) CHINCOTEAGUE ISLAND, VIRGINIA.—
9 Project for hurricane and storm damage reduction,
10 navigation, and ecosystem restoration, Chincoteague
11 Island, Virginia.

12 (28) BURLEY CREEK WATERSHED, KITSAP
13 COUNTY, WASHINGTON.—Project for flood damage
14 reduction and ecosystem restoration, Burley Creek
15 Watershed, Kitsap County, Washington.

16 (29) SAVANNAH RIVER BELOW AUGUSTA, GEOR-
17 GIA.—Project for ecosystem restoration, water sup-
18 ply, recreation, and flood control, Savannah River
19 below Augusta, Georgia.

20 (30) JOHNSTOWN, PENNSYLVANIA.—Project for
21 flood damage reduction, Johnstown, Pennsylvania.

22 **SEC. 1202. ADDITIONAL STUDIES.**

23 (a) TULSA AND WEST TULSA, ARKANSAS RIVER,
24 OKLAHOMA.—

1 (1) IN GENERAL.—The Secretary shall conduct
2 a study to determine the feasibility of modifying the
3 projects for flood risk management, Tulsa and West
4 Tulsa, Oklahoma, authorized by section 3 of the Act
5 of August 18, 1941 (55 Stat. 645, chapter 377).

6 (2) REQUIREMENTS.—In carrying out the study
7 under paragraph (1), the Secretary shall address
8 project deficiencies, uncertainties, and significant
9 data gaps, including material, construction, and sub-
10 surface, which render the project at risk of overtop-
11 ping, breaching, or system failure.

12 (3) PRIORITIZATION TO ADDRESS SIGNIFICANT
13 RISKS.—In any case in which a levee or levee system
14 (as defined in section 9002 of the Water Resources
15 Development Act of 2007 (33 U.S.C. 3301)) is clas-
16 sified as Class I or II under the levee safety action
17 classification tool developed by the Corps of Engi-
18 neers, the Secretary shall expedite the project for
19 budget consideration.

20 (b) CINCINNATI, OHIO.—

21 (1) REVIEW.—The Secretary shall review the
22 Central Riverfront Park Master Plan, dated Decem-
23 ber 1999, and the Ohio Riverfront Study, Cin-
24 cinnati, Ohio, dated August 2002, to determine the
25 feasibility of carrying out flood risk reduction, eco-

1 system restoration, and recreation components be-
2 yond the ecosystem restoration and recreation com-
3 ponents that were undertaken pursuant to section
4 5116 of the Water Resources Development Act of
5 2007 (Public Law 110–114; 121 Stat. 1238) as a
6 second phase of that project.

7 (2) AUTHORIZATION.—The project authorized
8 under section 5116 of the Water Resources Develop-
9 ment Act of 2007 (Public Law 110–114; 121 Stat.
10 1238) is modified to authorize the Secretary to un-
11 dertake the additional flood risk reduction and eco-
12 system restoration components described in para-
13 graph (1), at a total cost of \$30,000,000, if the Sec-
14 retary determines that the additional flood risk re-
15 duction, ecosystem restoration, and recreation com-
16 ponents, considered together, are feasible.

17 (c) ARCTIC DEEP DRAFT PORT DEVELOPMENT
18 PARTNERSHIPS.—Section 2105 of the Water Resources
19 Reform and Development Act of 2014 (33 U.S.C. 2243)
20 is amended—

21 (1) by striking “(25 U.S.C. 450b))” each place
22 it appears and inserting “(25 U.S.C. 5304)) and a
23 Native village, Regional Corporation, or Village Cor-
24 poration (as those terms are defined in section 3 of

1 the Alaska Native Claims Settlement Act (43 U.S.C.
2 1602)”;

3 (2) in subsection (d) by striking “the Secretary
4 of Homeland Security” and inserting “the Secretary
5 of the department in which the Coast Guard is oper-
6 ating”; and

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

8 “(e) CONSIDERATION OF NATIONAL SECURITY IN-
9 TERESTS.—In carrying out a study of the feasibility of
10 an Arctic deep draft port, the Secretary—

11 “(1) shall consult with the Secretary of the de-
12 partment in which the Coast Guard is operating to
13 identify benefits in carrying out the missions speci-
14 fied in section 888 of the Homeland Security Act of
15 2002 (6 U.S.C. 468) associated with an Arctic deep
16 draft port;

17 “(2) shall consult with the Secretary of Defense
18 to identify national security benefits associated with
19 an Arctic deep draft port; and

20 “(3) may consider such benefits in determining
21 whether an Arctic deep draft port is feasible.”.

22 (d) MISSISSIPPI RIVER SHIP CHANNEL, GULF TO
23 BATON ROUGE, LOUISIANA.—The Secretary shall conduct
24 a study to determine the feasibility of modifying the
25 project for navigation, Mississippi River Ship Channel,

1 Gulf to Baton Rouge, Louisiana, authorized by section
2 201(a) of the Harbor Development and Navigation Im-
3 provement Act of 1986 (Public Law 99–662; 100 Stat.
4 4090), to deepen the channel approaches and the associ-
5 ated area on the left descending bank of the Mississippi
6 River between mile 98.3 and mile 100.6 Above Head of
7 Passes (AHP) to a depth equal to the Channel.

8 **SEC. 1203. NORTH ATLANTIC COASTAL REGION.**

9 Section 4009 of the Water Resources Reform and De-
10 velopment Act of 2014 (Public Law 113–121; 128 Stat.
11 1316) is amended—

12 (1) in subsection (a) by striking “conduct a
13 study to determine the feasibility of carrying out
14 projects” and inserting “carry out a comprehensive
15 assessment and management plan”;

16 (2) in subsection (b)—

17 (A) in the subsection heading by striking
18 “STUDY” and inserting “ASSESSMENT AND
19 PLAN”; and

20 (B) in the matter preceding paragraph (1)
21 by striking “study” and inserting “assessment
22 and plan”; and

23 (3) in subsection (c)(1) by striking “study” and
24 inserting “assessment and plan”.

1 **SEC. 1204. SOUTH ATLANTIC COASTAL STUDY.**

2 (a) IN GENERAL.—The Secretary shall conduct a
3 study of the coastal areas located within the geographical
4 boundaries of the South Atlantic Division of the Corps of
5 Engineers to identify the risks and vulnerabilities of those
6 areas to increased hurricane and storm damage as a result
7 of sea level rise.

8 (b) REQUIREMENTS.—In carrying out the study
9 under subsection (a), the Secretary shall—

10 (1) conduct a comprehensive analysis of current
11 hurricane and storm damage reduction measures
12 with an emphasis on regional sediment management
13 practices to sustainably maintain or enhance current
14 levels of storm protection;

15 (2) identify risks and coastal vulnerabilities in
16 the areas affected by sea level rise;

17 (3) recommend measures to address the
18 vulnerabilities described in paragraph (2); and

19 (4) develop a long-term strategy for—

20 (A) addressing increased hurricane and
21 storm damages that result from rising sea lev-
22 els; and

23 (B) identifying opportunities to enhance
24 resiliency, increase sustainability, and lower
25 risks in—

26 (i) populated areas;

1 (ii) areas of concentrated economic
2 development; and

3 (iii) areas with vulnerable environ-
4 mental resources.

5 (c) REPORT.—Not later than 4 years after the date
6 of enactment of this Act, the Secretary shall submit to
7 the Committee on Environment and Public Works of the
8 Senate and the Committee on Transportation and Infra-
9 structure of the House of Representatives a report recom-
10 mending specific and detailed actions to address the risks
11 and vulnerabilities of the areas described in subsection (a)
12 due to increased hurricane and storm damage as a result
13 of sea level rise.

14 **SEC. 1205. TEXAS COASTAL AREA.**

15 In carrying out the comprehensive plan authorized by
16 section 4091 of the Water Resources Development Act of
17 2007 (Public Law 110–114; 121 Stat. 1187), the Sec-
18 retary shall consider studies, data, and information devel-
19 oped by the Gulf Coast Community Protection and Recov-
20 ery District to expedite completion of the plan.

21 **SEC. 1206. UPPER MISSISSIPPI AND ILLINOIS RIVERS.**

22 (a) IN GENERAL.—The Secretary shall conduct a
23 study of the riverine areas located within the Upper Mis-
24 sissippi River and Illinois River basins to identify the risks

1 and vulnerabilities of those areas to increased flood dam-
2 ages.

3 (b) REQUIREMENTS.—In carrying out the study
4 under subsection (a), the Secretary shall—

5 (1) conduct a comprehensive analysis of flood
6 risk management measures to maintain or enhance
7 current levels of protection;

8 (2) identify risks and vulnerabilities in the
9 areas affected by flooding;

10 (3) recommend specific measures and actions to
11 address the risks and vulnerabilities described in
12 paragraph (2);

13 (4) coordinate with the heads of other appro-
14 priate Federal agencies, the Governors of the States
15 within the Upper Mississippi and Illinois River ba-
16 sins, the appropriate levee and drainage districts,
17 nonprofit organizations, and other interested parties;

18 (5) develop basinwide hydrologic models for the
19 Upper Mississippi River System and improve analyt-
20 ical methods needed to produce scientifically based
21 recommendations for improvements to flood risk
22 management; and

23 (6) develop a long-term strategy for—

24 (A) addressing increased flood damages;

25 and

1 (B) identifying opportunities to enhance
2 resiliency, increase sustainability, and lower
3 risks in—

4 (i) populated areas;

5 (ii) areas of concentrated economic
6 development; and

7 (iii) areas with vulnerable environ-
8 mental resources.

9 (c) REPORT.—Not later than 4 years after the date
10 of enactment of this Act, the Secretary shall submit to
11 the Committee on Environment and Public Works of the
12 Senate and the Committee on Transportation and Infra-
13 structure of the House of Representatives and make pub-
14 licly available a report describing the results of the study
15 conducted under subsection (b).

16 **SEC. 1207. KANAWHA RIVER BASIN.**

17 The Secretary shall conduct studies to determine the
18 feasibility of implementing projects for flood risk manage-
19 ment, ecosystem restoration, navigation, water supply,
20 recreation, and other water resource related purposes
21 within the Kanawha River Basin, West Virginia, Virginia,
22 and North Carolina.

1 **Subtitle C—Deauthorizations,**
2 **Modifications, and Related Pro-**
3 **visions**

4 **SEC. 1301. DEAUTHORIZATION OF INACTIVE PROJECTS.**

5 (a) PURPOSES.—The purposes of this section are—

6 (1) to identify \$10,000,000,000 in water re-
7 sources development projects authorized by Congress
8 that are no longer viable for construction due to—

9 (A) a lack of local support;

10 (B) a lack of available Federal or non-Fed-
11 eral resources; or

12 (C) an authorizing purpose that is no
13 longer relevant or feasible;

14 (2) to create an expedited and definitive process
15 for Congress to deauthorize water resources develop-
16 ment projects that are no longer viable for construc-
17 tion; and

18 (3) to allow the continued authorization of
19 water resources development projects that are viable
20 for construction.

21 (b) INTERIM DEAUTHORIZATION LIST.—

22 (1) IN GENERAL.—The Secretary shall develop
23 an interim deauthorization list that identifies—

24 (A) each water resources development
25 project, or separable element of a project, au-

1 thorized for construction before November 8,
2 2007, for which—

3 (i) planning, design, or construction
4 was not initiated before the date of enact-
5 ment of this Act; or

6 (ii) planning, design, or construction
7 was initiated before the date of enactment
8 of this Act, but for which no funds, Fed-
9 eral or non-Federal, were obligated for
10 planning, design, or construction of the
11 project or separable element of the project
12 during the current fiscal year or any of the
13 6 preceding fiscal years; and

14 (B) each project or separable element iden-
15 tified and included on a list to Congress for de-
16 authorization pursuant to section 1001(b)(2) of
17 the Water Resources Development Act of 1986
18 (33 U.S.C. 579a(b)(2)).

19 (2) PUBLIC COMMENT AND CONSULTATION.—

20 (A) IN GENERAL.—The Secretary shall so-
21 licit comments from the public and the Gov-
22 ernors of each applicable State on the interim
23 deauthorization list developed under paragraph
24 (1).

1 (B) COMMENT PERIOD.—The public com-
2 ment period shall be 90 days.

3 (3) SUBMISSION TO CONGRESS; PUBLICA-
4 TION.—Not later than 90 days after the date of the
5 close of the comment period under paragraph (2),
6 the Secretary shall—

7 (A) submit a revised interim deauthoriza-
8 tion list to the Committee on Environment and
9 Public Works of the Senate and the Committee
10 on Transportation and Infrastructure of the
11 House of Representatives; and

12 (B) publish the revised interim deauthor-
13 ization list in the Federal Register.

14 (c) FINAL DEAUTHORIZATION LIST.—

15 (1) IN GENERAL.—The Secretary shall develop
16 a final deauthorization list of water resources devel-
17 opment projects, or separable elements of projects,
18 from the revised interim deauthorization list de-
19 scribed in subsection (b)(3).

20 (2) DEAUTHORIZATION AMOUNT.—

21 (A) PROPOSED FINAL LIST.—The Sec-
22 retary shall prepare a proposed final deauthor-
23 ization list of projects and separable elements of
24 projects that have, in the aggregate, an esti-

1 mated Federal cost to complete that is at least
2 \$10,000,000,000.

3 (B) DETERMINATION OF FEDERAL COST
4 TO COMPLETE.—For purposes of subparagraph
5 (A), the Federal cost to complete shall take into
6 account any allowances authorized by section
7 902 of the Water Resources Development Act
8 of 1986 (33 U.S.C. 2280), as applied to the
9 most recent project schedule and cost estimate.

10 (3) IDENTIFICATION OF PROJECTS.—

11 (A) SEQUENCING OF PROJECTS.—

12 (i) IN GENERAL.—The Secretary shall
13 identify projects and separable elements of
14 projects for inclusion on the proposed final
15 deauthorization list according to the order
16 in which the projects and separable ele-
17 ments of the projects were authorized, be-
18 ginning with the earliest authorized
19 projects and separable elements of projects
20 and ending with the latest project or sepa-
21 rable element of a project necessary to
22 meet the aggregate amount under para-
23 graph (2)(A).

24 (ii) FACTORS TO CONSIDER.—The
25 Secretary may identify projects and sepa-

1 rable elements of projects in an order other
2 than that established by clause (i) if the
3 Secretary determines, on a case-by-case
4 basis, that a project or separable element
5 of a project is critical for interests of the
6 United States, based on the possible im-
7 pact of the project or separable element of
8 the project on public health and safety, the
9 national economy, or the environment.

10 (iii) CONSIDERATION OF PUBLIC COM-
11 MENTS.—In making determinations under
12 clause (ii), the Secretary shall consider any
13 comments received under subsection (b)(2).

14 (B) APPENDIX.—The Secretary shall in-
15 clude as part of the proposed final deauthoriza-
16 tion list an appendix that—

17 (i) identifies each project or separable
18 element of a project on the interim de-
19 authorization list developed under sub-
20 section (b) that is not included on the pro-
21 posed final deauthorization list; and

22 (ii) describes the reasons why the
23 project or separable element is not in-
24 cluded on the proposed final list.

25 (4) PUBLIC COMMENT AND CONSULTATION.—

1 (A) IN GENERAL.—The Secretary shall so-
2 licit comments from the public and the Gov-
3 ernor of each applicable State on the proposed
4 final deauthorization list and appendix devel-
5 oped under paragraphs (2) and (3).

6 (B) COMMENT PERIOD.—The public com-
7 ment period shall be 90 days.

8 (5) SUBMISSION OF FINAL LIST TO CONGRESS;
9 PUBLICATION.—Not later than 120 days after the
10 date of the close of the comment period under para-
11 graph (4), the Secretary shall—

12 (A) submit a final deauthorization list and
13 an appendix to the final deauthorization list in
14 a report to the Committee on Environment and
15 Public Works of the Senate and the Committee
16 on Transportation and Infrastructure of the
17 House of Representatives; and

18 (B) publish the final deauthorization list
19 and the appendix to the final deauthorization
20 list in the Federal Register.

21 (d) DEAUTHORIZATION; CONGRESSIONAL REVIEW.—

22 (1) IN GENERAL.—After the expiration of the
23 180-day period beginning on the date of submission
24 of the final deauthorization list and appendix under
25 subsection (c), a project or separable element of a

1 project identified in the final deauthorization list is
2 hereby deauthorized, unless Congress passes a joint
3 resolution disapproving the final deauthorization list
4 prior to the end of such period.

5 (2) NON-FEDERAL CONTRIBUTIONS.—

6 (A) IN GENERAL.—A project or separable
7 element of a project identified in the final de-
8 authorization list under subsection (c) shall not
9 be deauthorized under this subsection if, before
10 the expiration of the 180-day period referred to
11 in paragraph (1), the non-Federal interest for
12 the project or separable element of the project
13 provides sufficient funds to complete the project
14 or separable element of the project.

15 (B) TREATMENT OF PROJECTS.—Notwith-
16 standing subparagraph (A), each project and
17 separable element of a project identified in the
18 final deauthorization list shall be treated as de-
19 authorized for purposes of the aggregate de-
20 authorization amount specified in subsection
21 (c)(2)(A).

22 (3) PROJECTS IDENTIFIED IN APPENDIX.—A
23 project or separable element of a project identified
24 in the appendix to the final deauthorization list shall

1 remain subject to future deauthorization by Con-
2 gress.

3 (e) SPECIAL RULE FOR PROJECTS RECEIVING
4 FUNDS FOR POST-AUTHORIZATION STUDY.—A project or
5 separable element of a project may not be identified on
6 the interim deauthorization list developed under sub-
7 section (b), or the final deauthorization list developed
8 under subsection (c), if the project or separable element
9 received funding for a post-authorization study during the
10 current fiscal year or any of the 6 preceding fiscal years.

11 (f) GENERAL PROVISIONS.—

12 (1) DEFINITIONS.—In this section, the fol-
13 lowing definitions apply:

14 (A) POST-AUTHORIZATION STUDY.—The
15 term “post-authorization study” means—

16 (i) a feasibility report developed under
17 section 905 of the Water Resources Devel-
18 opment Act of 1986 (33 U.S.C. 2282);

19 (ii) a feasibility study, as defined in
20 section 105(d) of the Water Resources De-
21 velopment Act of 1986 (33 U.S.C.
22 2215(d)); or

23 (iii) a review conducted under section
24 216 of the Flood Control Act of 1970 (33

1 U.S.C. 549a), including an initial appraisal
2 that—

3 (I) demonstrates a Federal inter-
4 est; and

5 (II) requires additional analysis
6 for the project or separable element.

7 (B) WATER RESOURCES DEVELOPMENT
8 PROJECT.—The term “water resources develop-
9 ment project” includes an environmental infra-
10 structure assistance project or program of the
11 Corps of Engineers.

12 (2) TREATMENT OF PROJECT MODIFICA-
13 TIONS.—For purposes of this section, if an author-
14 ized water resources development project or sepa-
15 rable element of the project has been modified by an
16 Act of Congress, the date of the authorization of the
17 project or separable element shall be deemed to be
18 the date of the most recent modification.

19 (g) REPEAL.—Subsection (a) and subsections (c)
20 through (f) of section 6001 of the Water Resources Re-
21 form and Development Act of 2014 (33 U.S.C. 579b) are
22 repealed.

23 **SEC. 1302. BACKLOG PREVENTION.**

24 (a) PROJECT DEAUTHORIZATION.—

1 (1) IN GENERAL.—A water resources develop-
2 ment project, or separable element of such a project,
3 authorized for construction by this Act shall not be
4 authorized after the last day of the 10-year period
5 beginning on the date of enactment of this Act un-
6 less—

7 (A) funds have been obligated for construc-
8 tion of, or a post-authorization study for, such
9 project or separable element during that period;
10 or

11 (B) the authorization contained in this Act
12 has been modified by a subsequent Act of Con-
13 gress.

14 (2) IDENTIFICATION OF PROJECTS.—Not later
15 than 60 days after the expiration of the 10-year pe-
16 riod referred to in paragraph (1), the Secretary shall
17 submit to the Committee on Environment and Pub-
18 lic Works of the Senate and the Committee on
19 Transportation and Infrastructure of the House of
20 Representatives a report that identifies the projects
21 deauthorized under paragraph (1).

22 (b) REPORT TO CONGRESS.—Not later than 60 days
23 after the expiration of the 12-year period beginning on the
24 date of enactment of this Act, the Secretary shall submit
25 to the Committee on Environment and Public Works of

1 the Senate and the Committee on Transportation and In-
2 frastructure of the House of Representatives, and make
3 available to the public, a report that contains—

4 (1) a list of any water resources development
5 projects authorized by this Act for which construc-
6 tion has not been completed during that period;

7 (2) a description of the reasons the projects
8 were not completed;

9 (3) a schedule for the completion of the projects
10 based on expected levels of appropriations; and

11 (4) a 5-year and 10-year projection of construc-
12 tion backlog and any recommendations to Congress
13 regarding how to mitigate current problems and the
14 backlog.

15 **SEC. 1303. VALDEZ, ALASKA.**

16 (a) IN GENERAL.—Subject to subsection (b), the por-
17 tion of the project for navigation, Valdez, Alaska, identi-
18 fied as Tract G, Harbor Subdivision, shall not be subject
19 to navigational servitude beginning on the date of enact-
20 ment of this Act.

21 (b) ENTRY BY FEDERAL GOVERNMENT.—The Fed-
22 eral Government may enter upon the property referred to
23 in subsection (a) to carry out any required operation and
24 maintenance of the general navigation features of the
25 project referred to in subsection (a).

1 **SEC. 1304. LOS ANGELES COUNTY DRAINAGE AREA, LOS AN-**
2 **GELES COUNTY, CALIFORNIA.**

3 (a) IN GENERAL.—The Secretary shall—

4 (1) prioritize the updating of the water control
5 manuals for control structures for the project for
6 flood control, Los Angeles County Drainage Area,
7 Los Angeles County, California, authorized by sec-
8 tion 101(b) of the Water Resources Development
9 Act of 1990 (Public Law 101–640; 104 Stat. 4611);
10 and

11 (2) integrate and incorporate into the project
12 seasonal operations for water conservation and water
13 supply.

14 (b) PARTICIPATION.—The update referred to in sub-
15 section (a) shall be done in coordination with all appro-
16 priate Federal agencies, elected officials, and members of
17 the public.

18 **SEC. 1305. SUTTER BASIN, CALIFORNIA.**

19 (a) IN GENERAL.—The separable element consti-
20 tuting the locally preferred plan increment reflected in the
21 report of the Chief of Engineers dated March 12, 2014,
22 and authorized for construction in item 8 of the table con-
23 tained in section 7002(2) of the Water Resources Reform
24 and Development Act of 2014 (Public Law 113–121; 128
25 Stat. 1366) is no longer authorized beginning on the date
26 of enactment of this Act.

1 (b) SAVINGS PROVISIONS.—The deauthorization
2 under subsection (a) does not affect—

3 (1) the national economic development plan sep-
4 arable element reflected in the report of the Chief of
5 Engineers dated March 12, 2014, and authorized for
6 construction in item 8 of the table contained in sec-
7 tion 7002(2) of the Water Resources Reform and
8 Development Act of 2014 (Public Law 113–121;
9 128 Stat. 1366); or

10 (2) previous authorizations providing for the
11 Sacramento River and major and minor tributaries
12 project, including—

13 (A) section 2 of the Act of March 1, 1917
14 (39 Stat. 949, chapter 144);

15 (B) section 10 of the Act of December 22,
16 1944 (58 Stat. 900, chapter 665);

17 (C) section 204 of the Flood Control Act
18 of 1950 (64 Stat. 177, chapter 188); and

19 (D) any other Acts relating to the author-
20 ization for the Sacramento River and major and
21 minor tributaries project along the Feather
22 River right bank between levee stationing
23 1483+33 and levee stationing 2368+00.

1 **SEC. 1306. ESSEX RIVER, MASSACHUSETTS.**

2 (a) DEAUTHORIZATION.—The portions of the project
3 for navigation, Essex River, Massachusetts, authorized by
4 the Act of July 13, 1892 (27 Stat. 88, chapter 158), and
5 modified by the Act of March 3, 1899 (30 Stat. 1121,
6 chapter 425), and the Act of March 2, 1907 (34 Stat.
7 1073, chapter 2509), that do not lie within the areas de-
8 scribed in subsection (b) are no longer authorized begin-
9 ning on the date of enactment of this Act.

10 (b) DESCRIPTION OF PROJECT AREAS.—The areas
11 described in this subsection are as follows: Beginning at
12 a point N3056139.82 E851780.21, thence southwesterly
13 about 156.88 feet to a point N3055997.75 E851713.67;
14 thence southwesterly about 64.59 feet to a point
15 N3055959.37 E851661.72; thence southwesterly about
16 145.14 feet to a point N3055887.10 E851535.85; thence
17 southwesterly about 204.91 feet to a point N3055855.12
18 E851333.45; thence northwesterly about 423.50 feet to a
19 point N3055976.70 E850927.78; thence northwesterly
20 about 58.77 feet to a point N3056002.99 E850875.21;
21 thence northwesterly about 240.57 feet to a point
22 N3056232.82 E850804.14; thence northwesterly about
23 203.60 feet to a point N3056435.41 E850783.93; thence
24 northwesterly about 78.63 feet to a point N3056499.63
25 E850738.56; thence northwesterly about 60.00 feet to a
26 point N3056526.30 E850684.81; thence southwesterly

1 about 85.56 feet to a point N3056523.33 E850599.31;
2 thence southwesterly about 36.20 feet to a point
3 N3056512.37 E850564.81; thence southwesterly about
4 80.10 feet to a point N3056467.08 E850498.74; thence
5 southwesterly about 169.05 feet to a point N3056334.36
6 E850394.03; thence northwesterly about 48.52 feet to a
7 point N3056354.38 E850349.83; thence northeasterly
8 about 83.71 feet to a point N3056436.35 E850366.84;
9 thence northeasterly about 212.38 feet to a point
10 N3056548.70 E850547.07; thence northeasterly about
11 47.60 feet to a point N3056563.12 E850592.43; thence
12 northeasterly about 101.16 feet to a point N3056566.62
13 E850693.53; thence southeasterly about 80.22 feet to a
14 point N3056530.97 E850765.40; thence southeasterly
15 about 99.29 feet to a point N3056449.88 E850822.69;
16 thence southeasterly about 210.12 feet to a point
17 N3056240.79 E850843.54; thence southeasterly about
18 219.46 feet to a point N3056031.13 E850908.38; thence
19 southeasterly about 38.23 feet to a point N3056014.02
20 E850942.57; thence southeasterly about 410.93 feet to a
21 point N3055896.06 E851336.21; thence northeasterly
22 about 188.43 feet to a point N3055925.46 E851522.33;
23 thence northeasterly about 135.47 feet to a point
24 N3055992.91 E851639.80; thence northeasterly about
25 52.15 feet to a point N3056023.90 E851681.75; thence

1 northeasterly about 91.57 feet to a point N3056106.82
2 E851720.59.

3 **SEC. 1307. PORT OF CASCADE LOCKS, OREGON.**

4 (a) **EXTINGUISHMENT OF PORTIONS OF EXISTING**
5 **FLOWAGE EASEMENT.**—With respect to the properties de-
6 scribed in subsection (b), beginning on the date of enact-
7 ment of this Act, the flowage easements described in sub-
8 section (c) are extinguished above elevation 82.2 feet
9 (NGVD29), the ordinary high water line.

10 (b) **AFFECTED PROPERTIES.**—The properties de-
11 scribed in this subsection, as recorded in Hood River
12 County, Oregon, are as follows:

13 (1) Lots 3, 4, 5, and 7 of the “Port of Cascade
14 Locks Business Park” subdivision, Instrument
15 Number 2014–00436.

16 (2) Parcels 1, 2, and 3 of Hood River County
17 Partition, Plat Number 2008–25P.

18 (c) **FLOWAGE EASEMENTS.**—The flowage easements
19 described in this subsection are identified as Tracts 302E–
20 1 and 304E–1 on the easement deeds recorded as instru-
21 ments in Hood River County, Oregon, and described as
22 follows:

23 (1) A flowage easement dated October 3, 1936,
24 recorded December 1, 1936, book 25, page 531
25 (Records of Hood River County, Oregon), in favor of

1 the United States (302E-1-Perpetual Flowage
2 Easement from 10/5/37, 10/5/36, and 10/3/36; pre-
3 viously acquired as Tracts OH-36 and OH-41 and
4 a portion of Tract OH-47).

5 (2) A flowage easement dated October 5, 1936,
6 recorded October 17, 1936, book 25, page 476
7 (Records of Hood River County, Oregon), in favor of
8 the United States, affecting that portion below the
9 94-foot contour line above main sea level (304 E1-
10 Perpetual Flowage Easement from 8/10/37 and 10/
11 3/36; previously acquired as Tract OH-042 and a
12 portion of Tract OH-47).

13 (d) FEDERAL LIABILITIES; CULTURAL, ENVIRON-
14 MENTAL, AND OTHER REGULATORY REVIEWS.—

15 (1) FEDERAL LIABILITY.—The United States
16 shall not be liable for any injury caused by the extin-
17 guishment of an easement under this section.

18 (2) CULTURAL AND ENVIRONMENTAL REGU-
19 LATORY ACTIONS.—Nothing in this section estab-
20 lishes any cultural or environmental regulation relat-
21 ing to the properties described in subsection (b).

22 (e) EFFECT ON OTHER RIGHTS.—Nothing in this
23 section affects any remaining right or interest of the Corps
24 of Engineers in the properties described in subsection (b).

1 **SEC. 1308. CENTRAL DELAWARE RIVER, PHILADELPHIA,**
2 **PENNSYLVANIA.**

3 (a) AREA TO BE DECLARED NONNAVIGABLE.—Sub-
4 ject to subsection (c), unless the Secretary finds, after con-
5 sultation with local and regional public officials (including
6 local and regional public planning organizations), that
7 there are substantive objections, those portions of the
8 Delaware River, bounded by the former bulkhead and
9 pierhead lines that were established by the Secretary of
10 War and successors and described as follows, are declared
11 to be nonnavigable waters of the United States:

12 (1) Piers 70 South through 38 South, encom-
13 passing an area bounded by the southern line of
14 Moore Street extended to the northern line of Cath-
15 erine Street extended, including the following piers:
16 Piers 70, 68, 67, 64, 61–63, 60, 57, 55, 53, 48, 46,
17 40, and 38.

18 (2) Piers 24 North through 72 North, encom-
19 passing an area bounded by the southern line of Cal-
20 lowhill Street extended to the northern line of East
21 Fletcher Street extended, including the following
22 piers: Piers 24, 25, 27–35, 35.5, 36, 37, 38, 39, 49,
23 51–52, 53–57, 58–65, 66, 67, 69, 70–72, and
24 Rivercenter.

25 (b) PUBLIC INTEREST DETERMINATION.—The Sec-
26 retary shall make the public interest determination under

1 subsection (a) separately for each proposed project to be
2 undertaken within the boundaries described in subsection
3 (a), using reasonable discretion, not later than 150 days
4 after the date of submission of appropriate plans for the
5 proposed project.

6 (c) LIMITS ON APPLICABILITY.—The declaration
7 under subsection (a) shall apply only to those parts of the
8 areas described in subsection (a) that are or will be bulk-
9 headed and filled or otherwise occupied by permanent
10 structures, including marina and recreation facilities.

11 **SEC. 1309. HUNTINGDON COUNTY, PENNSYLVANIA.**

12 (a) IN GENERAL.—The Secretary shall—

13 (1) prioritize the updating of the master plan
14 for the Juniata River and tributaries project, Hun-
15 tingdon County, Pennsylvania, authorized by section
16 203 of the Flood Control Act of 1962 (Public Law
17 87–874; 76 Stat. 1182); and

18 (2) ensure that alternatives for additional recre-
19 ation access and development at the project are fully
20 assessed, evaluated, and incorporated as a part of
21 the update.

22 (b) PARTICIPATION.—The update referred to in sub-
23 section (a) shall be done in coordination with all appro-
24 priate Federal agencies, elected officials, and members of
25 the public.

1 (c) INVENTORY.—In carrying out the update under
2 subsection (a), the Secretary shall include an inventory of
3 those lands that are not necessary to carry out the author-
4 ized purposes of the project.

5 **SEC. 1310. RIVERCENTER, PHILADELPHIA, PENNSYLVANIA.**

6 Section 38(c) of the Water Resources Development
7 Act of 1988 (33 U.S.C. 59j–1(c)) is amended—

8 (1) by striking “(except 30 years from such
9 date of enactment, in the case of the area or any
10 part thereof described in subsection (a)(5))”; and

11 (2) by adding at the end the following: “Not-
12 withstanding the preceding sentence, the declaration
13 of nonnavigability for the area described in sub-
14 section (a)(5), or any part thereof, shall not ex-
15 pire.”.

16 **SEC. 1311. SALT CREEK, GRAHAM, TEXAS.**

17 (a) IN GENERAL.—The project for flood control, envi-
18 ronmental restoration, and recreation, Salt Creek, Gra-
19 ham, Texas, authorized by section 101(a)(30) of the
20 Water Resources Development Act of 1999 (Public Law
21 106–53; 113 Stat. 278), is no longer authorized as a Fed-
22 eral project beginning on the date of enactment of this
23 Act.

24 (b) CERTAIN PROJECT-RELATED CLAIMS.—The non-
25 Federal interest for the project shall hold and save the

1 United States harmless from any claim that has arisen,
2 or that may arise, in connection with the project.

3 (c) TRANSFER.—The Secretary is authorized to
4 transfer any land acquired by the Federal Government for
5 the project on behalf of the non-Federal interest that re-
6 mains in Federal ownership on or after the date of enact-
7 ment of this Act to the non-Federal interest.

8 (d) REVERSION.—If the Secretary determines that
9 land transferred under subsection (c) ceases to be owned
10 by the public, all right, title, and interest in and to the
11 land and improvements thereon shall revert, at the discre-
12 tion of the Secretary, to the United States.

13 **SEC. 1312. TEXAS CITY SHIP CHANNEL, TEXAS CITY, TEXAS.**

14 (a) IN GENERAL.—The portion of the Texas City
15 Ship Channel, Texas City, Texas, described in subsection
16 (b) shall not be subject to navigational servitude beginning
17 on the date of enactment of this Act.

18 (b) DESCRIPTION.—The portion of the Texas City
19 Ship Channel described in this subsection is a tract or par-
20 cel containing 393.53 acres (17,142,111 square feet) of
21 land situated in the City of Texas City Survey, Abstract
22 Number 681, and State of Texas Submerged Lands
23 Tracts 98A and 99A, Galveston County, Texas, said
24 393.53 acre tract being more particularly described as fol-
25 lows:

1 (1) Beginning at the intersection of an edge of
2 fill along Galveston Bay with the most northerly east
3 survey line of said City of Texas City Survey, Ab-
4 stract No. 681, the same being a called 375.75 acre
5 tract patented by the State of Texas to the City of
6 Texas City and recorded in Volume 1941, Page 750
7 of the Galveston County Deed Records (G.C.D.R.),
8 from which a found U.S. Army Corps of Engineers
9 Brass Cap stamped “R 4-3” set in the top of the
10 Texas City Dike along the east side of Bay Street
11 bears North $56^{\circ} 14' 32''$ West, a distance of
12 6,045.31 feet and from which a found U.S. Army
13 Corps of Engineers Brass Cap stamped “R 4-2” set
14 in the top of the Texas City Dike along the east side
15 of Bay Street bears North $49^{\circ} 13' 20''$ West, a dis-
16 tance of 6,693.64 feet.

17 (2) Thence, over and across said State Tracts
18 98A and 99A and along the edge of fill along said
19 Galveston Bay, the following 8 courses and dis-
20 tances:

21 (A) South $75^{\circ} 49' 13''$ East, a distance of
22 298.08 feet to an angle point of the tract herein
23 described.

1 (B) South $81^{\circ} 16' 26''$ East, a distance of
2 170.58 feet to an angle point of the tract herein
3 described.

4 (C) South $79^{\circ} 20' 31''$ East, a distance of
5 802.34 feet to an angle point of the tract herein
6 described.

7 (D) South $75^{\circ} 57' 32''$ East, a distance of
8 869.68 feet to a point for the beginning of a
9 non-tangent curve to the right.

10 (E) Easterly along said non-tangent curve
11 to the right having a radius of 736.80 feet, a
12 central angle of $24^{\circ} 55' 59''$, a chord of South
13 $68^{\circ} 47' 35''$ East – 318.10 feet, and an arc
14 length of 320.63 feet to a point for the begin-
15 ning of a non-tangent curve to the left.

16 (F) Easterly along said non-tangent curve
17 to the left having a radius of 373.30 feet, a
18 central angle of $31^{\circ} 57' 42''$, a chord of South
19 $66^{\circ} 10' 42''$ East – 205.55 feet, and an arc
20 length of 208.24 feet to a point for the begin-
21 ning of a non-tangent curve to the right.

22 (G) Easterly along said non-tangent curve
23 to the right having a radius of 15,450.89 feet,
24 a central angle of $02^{\circ} 04' 10''$, a chord of
25 South $81^{\circ} 56' 20''$ East – 558.04 feet, and an

1 are length of 558.07 feet to a point for the be-
2 ginning of a compound curve to the right and
3 the northeasterly corner of the tract herein de-
4 scribed.

5 (H) Southerly along said compound curve
6 to the right and the easterly line of the tract
7 herein described, having a radius of 1,425.00
8 feet, a central angle of $133^{\circ} 08' 00''$, a chord
9 of South $14^{\circ} 20' 15''$ East – 2,614.94 feet, and
10 an arc length of 3,311.15 feet to a point on a
11 line lying 125.00 feet northerly of and parallel
12 with the centerline of an existing levee for the
13 southeasterly corner of the tract herein de-
14 scribed.

15 (3) Thence, continuing over and across said
16 State Tracts 98A and 99A and along lines lying
17 125.00 feet northerly of, parallel, and concentric
18 with the centerline of said existing levee, the fol-
19 lowing 12 courses and distances:

20 (A) North $78^{\circ} 01' 58''$ West, a distance of
21 840.90 feet to an angle point of the tract herein
22 described.

23 (B) North $76^{\circ} 58' 35''$ West, a distance of
24 976.66 feet to an angle point of the tract herein
25 described.

1 (C) North $76^{\circ} 44' 33''$ West, a distance of
2 1,757.03 feet to a point for the beginning of a
3 tangent curve to the left.

4 (D) Southwesterly, along said tangent
5 curve to the left having a radius of 185.00 feet,
6 a central angle of $82^{\circ} 27' 32''$, a chord of
7 South $62^{\circ} 01' 41''$ West – 243.86 feet, and an
8 arc length of 266.25 feet to a point for the be-
9 ginning of a compound curve to the left.

10 (E) Southerly, along said compound curve
11 to the left having a radius of 4,535.58 feet, a
12 central angle of $11^{\circ} 06' 58''$, a chord of South
13 $15^{\circ} 14' 26''$ West – 878.59 feet, and an arc
14 length of 879.97 feet to an angle point of the
15 tract herein described.

16 (F) South $64^{\circ} 37' 11''$ West, a distance of
17 146.03 feet to an angle point of the tract herein
18 described.

19 (G) South $67^{\circ} 08' 21''$ West, a distance of
20 194.42 feet to an angle point of the tract herein
21 described.

22 (H) North $34^{\circ} 48' 22''$ West, a distance of
23 789.69 feet to an angle point of the tract herein
24 described.

1 (I) South $42^{\circ} 47' 10''$ West, a distance of
2 161.01 feet to an angle point of the tract herein
3 described.

4 (J) South $42^{\circ} 47' 10''$ West, a distance of
5 144.66 feet to a point for the beginning of a
6 tangent curve to the right.

7 (K) Westerly, along said tangent curve to
8 the right having a radius of 310.00 feet, a cen-
9 tral angle of $59^{\circ} 50' 28''$, a chord of South 72°
10 $42' 24''$ West – 309.26 feet, and an arc length
11 of 323.77 feet to an angle point of the tract
12 herein described.

13 (L) North $77^{\circ} 22' 21''$ West, a distance of
14 591.41 feet to the intersection of said parallel
15 line with the edge of fill adjacent to the easterly
16 edge of the Texas City Turning Basin for the
17 southwesterly corner of the tract herein de-
18 scribed, from which a found U.S. Army Corps
19 of Engineers Brass Cap stamped “SWAN 2”
20 set in the top of a concrete column set flush in
21 the ground along the north bank of Swan Lake
22 bears South $20^{\circ} 51' 58''$ West, a distance of
23 4,862.67 feet.

24 (4) Thence, over and across said City of Texas
25 City Survey and along the edge of fill adjacent to

1 the easterly edge of said Texas City Turning Basin,
2 the following 18 courses and distances:

3 (A) North $01^{\circ} 34' 19''$ East, a distance of
4 57.40 feet to an angle point of the tract herein
5 described.

6 (B) North $05^{\circ} 02' 13''$ West, a distance of
7 161.85 feet to an angle point of the tract herein
8 described.

9 (C) North $06^{\circ} 01' 56''$ East, a distance of
10 297.75 feet to an angle point of the tract herein
11 described.

12 (D) North $06^{\circ} 18' 07''$ West, a distance of
13 71.33 feet to an angle point of the tract herein
14 described.

15 (E) North $07^{\circ} 21' 09''$ West, a distance of
16 122.45 feet to an angle point of the tract herein
17 described.

18 (F) North $26^{\circ} 41' 15''$ West, a distance of
19 46.02 feet to an angle point of the tract herein
20 described.

21 (G) North $01^{\circ} 31' 59''$ West, a distance of
22 219.78 feet to an angle point of the tract herein
23 described.

1 (H) North $15^{\circ} 54' 07''$ West, a distance of
2 104.89 feet to an angle point of the tract herein
3 described.

4 (I) North $04^{\circ} 00' 34''$ East, a distance of
5 72.94 feet to an angle point of the tract herein
6 described.

7 (J) North $06^{\circ} 46' 38''$ West, a distance of
8 78.89 feet to an angle point of the tract herein
9 described.

10 (K) North $12^{\circ} 07' 59''$ West, a distance of
11 182.79 feet to an angle point of the tract herein
12 described.

13 (L) North $20^{\circ} 50' 47''$ West, a distance of
14 105.74 feet to an angle point of the tract herein
15 described.

16 (M) North $02^{\circ} 02' 04''$ West, a distance of
17 184.50 feet to an angle point of the tract herein
18 described.

19 (N) North $08^{\circ} 07' 11''$ East, a distance of
20 102.23 feet to an angle point of the tract herein
21 described.

22 (O) North $08^{\circ} 16' 00''$ West, a distance of
23 213.45 feet to an angle point of the tract herein
24 described.

1 (P) North $03^{\circ} 15' 16''$ West, a distance of
2 336.45 feet to a point for the beginning of a
3 non-tangent curve to the left.

4 (Q) Northerly along said non-tangent
5 curve to the left having a radius of 896.08 feet,
6 a central angle of $14^{\circ} 00' 05''$, a chord of
7 North $09^{\circ} 36' 03''$ West – 218.43 feet, and an
8 arc length of 218.97 feet to a point for the be-
9 ginning of a non-tangent curve to the right.

10 (R) Northerly along said non-tangent
11 curve to the right having a radius of 483.33
12 feet, a central angle of $19^{\circ} 13' 34''$, a chord of
13 North $13^{\circ} 52' 03''$ East – 161.43 feet, and an
14 arc length of 162.18 feet to a point for the
15 northwesterly corner of the tract herein de-
16 scribed.

17 (5) Thence, continuing over and across said
18 City of Texas City Survey, and along the edge of fill
19 along said Galveston Bay, the following 15 courses
20 and distances:

21 (A) North $30^{\circ} 45' 02''$ East, a distance of
22 189.03 feet to an angle point of the tract herein
23 described.

1 (B) North $34^{\circ} 20' 49''$ East, a distance of
2 174.16 feet to a point for the beginning of a
3 non-tangent curve to the right.

4 (C) Northeasterly along said non-tangent
5 curve to the right having a radius of 202.01
6 feet, a central angle of $25^{\circ} 53' 37''$, a chord of
7 North $33^{\circ} 14' 58''$ East – 90.52 feet, and an
8 arc length of 91.29 feet to a point for the be-
9 ginning of a non-tangent curve to the left.

10 (D) Northeasterly along said non-tangent
11 curve to the left having a radius of 463.30 feet,
12 a central angle of $23^{\circ} 23' 57''$, a chord of
13 North $48^{\circ} 02' 53''$ East – 187.90 feet, and an
14 arc length of 189.21 feet to a point for the be-
15 ginning of a non-tangent curve to the right.

16 (E) Northeasterly along said non-tangent
17 curve to the right having a radius of 768.99
18 feet, a central angle of $16^{\circ} 24' 19''$, a chord of
19 North $43^{\circ} 01' 40''$ East – 219.43 feet, and an
20 arc length of 220.18 feet to an angle point of
21 the tract herein described.

22 (F) North $38^{\circ} 56' 50''$ East, a distance of
23 126.41 feet to an angle point of the tract herein
24 described.

1 (G) North $42^{\circ} 59' 50''$ East, a distance of
2 128.28 feet to a point for the beginning of a
3 non-tangent curve to the right.

4 (H) Northerly along said non-tangent
5 curve to the right having a radius of 151.96
6 feet, a central angle of $68^{\circ} 36' 31''$, a chord of
7 North $57^{\circ} 59' 42''$ East – 171.29 feet, and an
8 arc length of 181.96 feet to a point for the
9 most northerly corner of the tract herein de-
10 scribed.

11 (I) South $77^{\circ} 14' 49''$ East, a distance of
12 131.60 feet to an angle point of the tract herein
13 described.

14 (J) South $84^{\circ} 44' 18''$ East, a distance of
15 86.58 feet to an angle point of the tract herein
16 described.

17 (K) South $58^{\circ} 14' 45''$ East, a distance of
18 69.62 feet to an angle point of the tract herein
19 described.

20 (L) South $49^{\circ} 44' 51''$ East, a distance of
21 149.00 feet to an angle point of the tract herein
22 described.

23 (M) South $44^{\circ} 47' 21''$ East, a distance of
24 353.77 feet to a point for the beginning of a
25 non-tangent curve to the left.

1 (N) Easterly along said non-tangent curve
2 to the left having a radius of 253.99 feet, a
3 central angle of $98^{\circ} 53' 23''$, a chord of South
4 $83^{\circ} 28' 51''$ East – 385.96 feet, and an arc
5 length of 438.38 feet to an angle point of the
6 tract herein described.

7 (O) South $75^{\circ} 49' 13''$ East, a distance of
8 321.52 feet to the point of beginning and con-
9 taining 393.53 acres (17,142,111 square feet)
10 of land.

11 **SEC. 1313. STONINGTON HARBOUR, CONNECTICUT.**

12 The portion of the project for navigation, Stonington
13 Harbour, Connecticut, authorized by the Act of May 23,
14 1828 (4 Stat. 288, chapter 73), that consists of the inner
15 stone breakwater that begins at coordinates N.
16 682,146.42, E. 1231,378.69, running north 83.587 de-
17 grees west $166.79'$ to a point N. 682,165.05, E.
18 1,231,212.94, running north 69.209 degrees west $380.89'$
19 to a point N. 682,300.25, E. 1,230,856.86, is no longer
20 authorized as a Federal project beginning on the date of
21 enactment of this Act.

22 **SEC. 1314. RED RIVER BELOW DENISON DAM, TEXAS, OKLA-**
23 **HOMA, ARKANSAS, AND LOUISIANA.**

24 The portion of the project for flood control with re-
25 spect to the Red River below Denison Dam, Texas, Okla-

1 homa, Arkansas, and Louisiana, authorized by section 10
2 of the Flood Control Act of 1946 (60 Stat. 647, chapter
3 596), consisting of the portion of the West Agurs Levee
4 that begins at lat. 32° 32' 50.86" N., by long. 93° 46'
5 16.82" W., and ends at lat. 32° 31' 22.79" N., by long.
6 93° 45' 2.47" W., is no longer authorized beginning on
7 the date of enactment of this Act.

8 **SEC. 1315. GREEN RIVER AND BARREN RIVER, KENTUCKY.**

9 (a) IN GENERAL.—Beginning on the date of enact-
10 ment of this Act, commercial navigation at the locks and
11 dams identified in the report of the Chief of Engineers
12 entitled “Green River Locks and Dams 3, 4, 5, and 6 and
13 Barren River Lock and Dam 1, Kentucky” and dated
14 April 30, 2015, shall no longer be authorized, and the land
15 and improvements associated with the locks and dams
16 shall be disposed of—

17 (1) consistent with this section; and

18 (2) subject to such terms and conditions as the
19 Secretary determines to be necessary and appro-
20 priate in the public interest.

21 (b) DISPOSITION.—

22 (1) GREEN RIVER LOCK AND DAM 3.—The Sec-
23 retary shall convey to the Rochester Dam Regional
24 Water Commission all right, title, and interest of the
25 United States in and to the land associated with

1 Green River Lock and Dam 3, located in Ohio Coun-
2 ty and Muhlenberg County, Kentucky, together with
3 any improvements on the land.

4 (2) GREEN RIVER LOCK AND DAM 4.—The Sec-
5 retary shall convey to Butler County, Kentucky, all
6 right, title, and interest of the United States in and
7 to the land associated with Green River Lock and
8 Dam 4, located in Butler County, Kentucky, to-
9 gether with any improvements on the land.

10 (3) GREEN RIVER LOCK AND DAM 5.—The Sec-
11 retary shall convey to the State of Kentucky, a polit-
12 ical subdivision of the State of Kentucky, or a non-
13 profit, nongovernmental organization all right, title,
14 and interest of the United States in and to the land
15 associated with Green River Lock and Dam 5, lo-
16 cated in Edmonson County, Kentucky, together with
17 any improvements on the land, for the purposes of—

18 (A) removing Lock and Dam 5 from the
19 river at the earliest feasible time; and

20 (B) making the land available for con-
21 servation and public recreation, including river
22 access.

23 (4) GREEN RIVER LOCK AND DAM 6.—

24 (A) IN GENERAL.—The Secretary shall
25 transfer to the Secretary of the Interior admin-

1 administrative jurisdiction over the portion of the
2 land associated with Green River Lock and
3 Dam 6, Edmonson County, Kentucky, that is
4 located on the left descending bank of the
5 Green River, together with any improvements
6 on the land, for inclusion in Mammoth Cave
7 National Park.

8 (B) TRANSFER TO THE STATE OF KEN-
9 TUCKY.—The Secretary shall convey to the
10 State of Kentucky all right, title, and interest
11 of the United States in and to the portion of
12 the land associated with Green River Lock and
13 Dam 6, Edmonson County, Kentucky, that is
14 located on the right descending bank of the
15 Green River, together with any improvements
16 on the land, for use by the Department of Fish
17 and Wildlife Resources of the State of Ken-
18 tucky for the purposes of—

19 (i) removing Lock and Dam 6 from
20 the river at the earliest feasible time; and

21 (ii) making the land available for con-
22 servation and public recreation, including
23 river access.

24 (5) BARREN RIVER LOCK AND DAM 1.—The
25 Secretary shall convey to the State of Kentucky, all

1 right, title, and interest of the United States in and
2 to the land associated with Barren River Lock and
3 Dam 1, located in Warren County, Kentucky, to-
4 gether with any improvements on the land, for use
5 by the Department of Fish and Wildlife Resources
6 of the State of Kentucky for the purposes of—

7 (A) removing Lock and Dam 1 from the
8 river at the earliest feasible time; and

9 (B) making the land available for con-
10 servation and public recreation, including river
11 access.

12 (c) CONDITIONS.—

13 (1) IN GENERAL.—The exact acreage and legal
14 description of any land to be disposed of, trans-
15 ferred, or conveyed under this section shall be deter-
16 mined by a survey satisfactory to the Secretary.

17 (2) QUITCLAIM DEED.—A conveyance under
18 paragraph (1), (2), (4), or (5) of subsection (b) shall
19 be accomplished by quitclaim deed and without con-
20 sideration.

21 (3) ADMINISTRATIVE COSTS.—The Secretary
22 shall be responsible for all administrative costs asso-
23 ciated with a transfer or conveyance under this sec-
24 tion, including the costs of a survey carried out
25 under paragraph (1).

1 (4) REVERSION.—If the Secretary determines
2 that the land conveyed under this section is not used
3 by a non-Federal entity for a purpose that is con-
4 sistent with the purpose of the conveyance, all right,
5 title, and interest in and to the land, including any
6 improvements on the land, shall revert, at the discre-
7 tion of the Secretary, to the United States, and the
8 United States shall have the right of immediate
9 entry onto the land.

10 **SEC. 1316. HANNIBAL SMALL BOAT HARBOR, HANNIBAL,**
11 **MISSOURI.**

12 The project for navigation at Hannibal Small Boat
13 Harbor on the Mississippi River, Hannibal, Missouri, au-
14 thorized by section 101 of the River and Harbor Act of
15 1950 (64 Stat. 166, chapter 188), is no longer authorized
16 beginning on the date of enactment of this Act, and any
17 maintenance requirements associated with the project are
18 terminated.

19 **SEC. 1317. LAND TRANSFER AND TRUST LAND FOR**
20 **MUSCOGEE (CREEK) NATION.**

21 (a) TRANSFER.—

22 (1) IN GENERAL.—Subject to paragraph (2)
23 and for the consideration described in subsection (c),
24 the Secretary shall transfer to the Secretary of the
25 Interior the land described in subsection (b) to be

1 held in trust for the benefit of the Muscogee (Creek)
2 Nation.

3 (2) CONDITIONS.—The land transfer under this
4 subsection shall be subject to the following condi-
5 tions:

6 (A) The transfer—

7 (i) shall not interfere with the Corps
8 of Engineers operation of the Eufaula
9 Lake Project or any other authorized civil
10 works project; and

11 (ii) shall be subject to such other
12 terms and conditions as the Secretary de-
13 termines to be necessary and appropriate
14 to ensure the continued operation of the
15 Eufaula Lake Project or any other author-
16 ized civil works project.

17 (B) The Secretary shall retain the right to
18 inundate with water the land transferred to the
19 Secretary of the Interior under this subsection
20 as necessary to carry out an authorized purpose
21 of the Eufaula Lake Project or any other civil
22 works project.

23 (C) No gaming activities may be conducted
24 on the land transferred under this subsection.

25 (b) LAND DESCRIPTION.—

1 (1) IN GENERAL.—The land to be transferred
2 pursuant to subsection (a) is the approximately
3 18.38 acres of land located in the Northwest Quar-
4 ter (NW 1/4) of sec. 3, T. 10 N., R. 16 E.,
5 McIntosh County, Oklahoma, generally depicted as
6 “USACE” on the map entitled “Muscogee (Creek)
7 Nation Proposed Land Acquisition” and dated Octo-
8 ber 16, 2014.

9 (2) SURVEY.—The exact acreage and legal de-
10 scription of the land to be transferred under sub-
11 section (a) shall be determined by a survey satisfac-
12 tory to the Secretary and the Secretary of the Inte-
13 rior.

14 (c) CONSIDERATION.—The Muscogee (Creek) Nation
15 shall pay—

16 (1) to the Secretary an amount that is equal to
17 the fair market value of the land transferred under
18 subsection (a), as determined by the Secretary,
19 which funds may be accepted and expended by the
20 Secretary; and

21 (2) all costs and administrative expenses associ-
22 ated with the transfer of land under subsection (a),
23 including the costs of—

24 (A) the survey under subsection (b)(2);

1 (B) compliance with the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et
3 seq.); and

4 (C) any coordination necessary with re-
5 spect to requirements related to endangered
6 species, cultural resources, clean water, and
7 clean air.

8 **SEC. 1318. CAMERON COUNTY, TEXAS.**

9 (a) **RELEASE.**—As soon as practicable after the date
10 of enactment of this Act, the Secretary shall execute and
11 file in the appropriate office a deed of release, amended
12 deed, or other appropriate instrument effectuating the re-
13 lease of the interests of the United States in certain tracts
14 of land located in Cameron County, Texas, as described
15 in subsection (d).

16 (b) **ADDITIONAL TERMS AND CONDITIONS.**—The
17 Secretary may require that any release under this section
18 be subject to such additional terms and conditions as the
19 Secretary considers appropriate and necessary to protect
20 the interests of the United States.

21 (c) **COSTS OF CONVEYANCE.**—The Brownsville Navi-
22 gation District shall be responsible for all reasonable and
23 necessary costs, including real estate transaction and envi-
24 ronmental documentation costs, associated with the re-
25 leases.

1 (d) DESCRIPTION.—The Secretary shall release all or
2 portions of the interests in the following tracts as deter-
3 mined by a survey to be paid for by the Brownsville Navi-
4 gation District, that is satisfactory to the Secretary:

5 (1) Tract No. 1: Being 1,277.80 Acres as con-
6 veyed by the Brownsville Navigation District of
7 Cameron County, Texas, to the United States of
8 America by instrument dated September 22, 1932,
9 and recorded at Volume 238, pages 578 through
10 580, in the Deed Records of Cameron County,
11 Texas, to be released and abandoned in its entirety,
12 save and except approximately 361.03 Acres, com-
13 prised of the area designated by the U.S. Army
14 Corps of Engineers as required for the project
15 known as Brazos Island Harbor Deepening, and fur-
16 ther save and except approximately 165.56 Acres for
17 the existing Dredged Material Placement Area No.
18 4A1.

19 (2) Tract No. 2: Being 842.28 Acres as con-
20 demned by the United States of America by the
21 Final Report of Commissioners dated May 6, 1938,
22 and recorded at Volume 281, pages 486 through
23 488, in the Deed Records of Cameron County,
24 Texas, to be released and abandoned in its entirety,
25 save and except approximately 178.15 Acres com-

1 prised of a strip 562 feet in width, being the area
2 designated by the U.S. Army Corps of Engineers as
3 required for the project known as Brazos Island
4 Harbor Deepening, further save and except approxi-
5 mately 76.95 Acres for the existing Dredged Mate-
6 rial Placement Area No. 4A1, and further save and
7 except approximately 74.40 Acres for the existing
8 Dredged Material Placement Area No. 4B1.

9 (3) Tract No. 3: Being 362.00 Acres as con-
10 veyed by the Manufacturing and Distributing Uni-
11 versity to the United States of America by instru-
12 ment dated March 3, 1936, and recorded at Volume
13 “R”, page 123, in the Miscellaneous Deed Records
14 of Cameron County, Texas, to be released and aban-
15 doned in its entirety.

16 (4) Tract No. 4: Being 9.48 Acres as conveyed
17 by the Brownsville Navigation District of Cameron
18 County, Texas, to the United States of America by
19 instrument dated January 23, 1939, and recorded at
20 Volume 293, pages 115 through 118, in the Deed
21 Records of Cameron County, Texas (said 9.48 Acres
22 are identified in said instrument as the “Second
23 Tract”), to be released and abandoned in its en-
24 tirety, save and except approximately 1.97 Acres,
25 comprised of the area designated by the U.S. Army

1 Corps of Engineers as required for the project
2 known as Brazos Island Harbor Deepening, plus 5.0
3 feet.

4 (5) Tract No. 5: Being 10.91 Acres as conveyed
5 by the Brownsville Navigation District of Cameron
6 County, Texas, by instrument dated March 6, 1939,
7 and recorded at Volume 293, pages 113 through
8 115, in the Deed Records of Cameron County, Texas
9 (said 10.91 Acres are identified in said instrument
10 as "Third Tract"), to be released and abandoned in
11 its entirety, save and except approximately 0.36
12 Acre, comprised of the area designated by the U.S.
13 Army Corps of Engineers as required for the project
14 known as Brazos Island Harbor Deepening.

15 (6) Tract No. 9: Being 552.82 Acres as con-
16 demned by the United States of America by the
17 Final Report of Commissioners dated May 6, 1938,
18 and recorded at Volume 281, pages 483 through
19 486, in the Deed Records of Cameron County,
20 Texas, to be released and abandoned in its entirety,
21 save and except approximately 84.59 Acres, com-
22 prised of the area designated by the U.S. Army
23 Corps of Engineers as required for the project
24 known as Brazos Island Harbor Deepening.

1 (7) Tract No. 10: Being 325.02 Acres as con-
2 demned by the United States of America by the
3 Final Report of Commissioners dated May 7, 1935,
4 and recorded at Volume 281, pages 476 through
5 483, in the Deed Records of Cameron County,
6 Texas, to be released and abandoned in its entirety,
7 save and except approximately 76.81 Acres, com-
8 prised of the area designated by the U.S. Army
9 Corps of Engineers as required for the project
10 known as Brazos Island Harbor Deepening.

11 (8) Tract No. 11: Being 8.85 Acres in as con-
12 veyed by the Brownsville Navigation District of
13 Cameron County, Texas, to the United States of
14 America by instrument dated January 23, 1939, and
15 recorded at Volume 293, Pages 115 through 118, in
16 the Deed Records of Cameron County, Texas (said
17 8.85 Acres are identified in said instrument as the
18 “First Tract”), to be released and abandoned in its
19 entirety, save and except approximately 0.30 Acres,
20 comprised of the area within the project known as
21 Brazos Island Harbor Deepening, plus 5.0 feet.

22 (9) Tract No. A100E: Being 13.63 Acres in as
23 conveyed by the Brownsville Navigation District of
24 Cameron County, Texas, to the United States of
25 America by instrument dated September 30, 1947,

1 and recorded at Volume 427, page 1 through 4 in
2 the Deed Records of Cameron County, to be released
3 and abandoned in its entirety, save and except ap-
4 proximately 6.60 Acres, comprised of the area des-
5 ignated by the U.S. Army Corps of Engineers as re-
6 quired for the existing project known as Brazos Is-
7 land Harbor, plus 5.0 feet.

8 (10) Tract No. 122E: Being 31.4 Acres as con-
9 veyed by the Brownsville Navigation District of
10 Cameron County, Texas, to the United States of
11 America by instrument dated December 11, 1963
12 and recorded at Volume 756, page 393 in the Deed
13 Records of Cameron County, Texas, to be released
14 and abandoned in its entirety, save and except ap-
15 proximately 4.18 Acres in Share 31 of the Espiritu
16 Santo Grant in Cameron County, Texas, and further
17 save and except approximately 2.04 Acres in Share
18 7 of the San Martin Grant in Cameron County,
19 Texas, being portions of the area designated by the
20 U.S. Army Corps of Engineers as required for the
21 current project known as Brazos Island Harbor, plus
22 5.0 feet.

1 **SEC. 1319. NEW SAVANNAH BLUFF LOCK AND DAM, GEOR-**
2 **GIA AND SOUTH CAROLINA.**

3 (a) DEFINITIONS.—In this section, the following defi-
4 nitions apply:

5 (1) NEW SAVANNAH BLUFF LOCK AND DAM.—

6 The term “New Savannah Bluff Lock and Dam”
7 means—

8 (A) the lock and dam at New Savannah
9 Bluff, Savannah River, Georgia and South
10 Carolina; and

11 (B) the appurtenant features to the lock
12 and dam, including—

13 (i) the adjacent approximately 50-acre
14 park and recreation area with improve-
15 ments made under the project for naviga-
16 tion, Savannah River below Augusta, Geor-
17 gia, authorized by the first section of the
18 Act of July 3, 1930 (46 Stat. 924), and
19 the first section of the Act of August 30,
20 1935 (49 Stat. 1032); and

21 (ii) other land that is part of the
22 project and that the Secretary determines
23 to be appropriate for conveyance under
24 this section.

25 (2) PROJECT.—The term “Project” means the
26 project for navigation, Savannah Harbor expansion,

1 Georgia, authorized by section 7002(1) of the Water
2 Resources Reform and Development Act of 2014
3 (Public Law 113–121; 128 Stat. 1364).

4 (b) DEAUTHORIZATION.—

5 (1) IN GENERAL.—Effective beginning on the
6 date of enactment of this Act—

7 (A) the New Savannah Bluff Lock and
8 Dam is deauthorized; and

9 (B) notwithstanding section 348(l)(2)(B)
10 of the Water Resources Development Act of
11 2000 (Public Law 106–541; 114 Stat. 2630;
12 114 Stat. 2763A–228) (as in effect on the day
13 before the date of enactment of this Act) or any
14 other provision of law, the New Savannah Bluff
15 Lock and Dam shall not be conveyed to the city
16 of North Augusta and Aiken County, South
17 Carolina, or any other non-Federal entity.

18 (2) REPEAL.—Section 348 of the Water Re-
19 sources Development Act of 2000 (Public Law 106–
20 541; 114 Stat. 2630; 114 Stat. 2763A–228) is
21 amended—

22 (A) by striking subsection (l); and

23 (B) by redesignating subsections (m) and
24 (n) as subsections (l) and (m), respectively.

25 (c) PROJECT MODIFICATIONS.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, the Project is modified to include,
3 as the Secretary determines to be necessary—

4 (A)(i) repair of the lock wall of the New
5 Savannah Bluff Lock and Dam and modifica-
6 tion of the structure such that the structure is
7 able—

8 (I) to maintain the pool for naviga-
9 tion, water supply, and recreational activi-
10 ties, as in existence on the date of enact-
11 ment of this Act; and

12 (II) to allow safe passage over the
13 structure to historic spawning grounds of
14 shortnose sturgeon, Atlantic sturgeon, and
15 other migratory fish; or

16 (ii)(I) construction at an appropriate loca-
17 tion across the Savannah River of a structure
18 that is able to maintain the pool for water sup-
19 ply and recreational activities, as in existence
20 on the date of enactment of this Act; and

21 (II) removal of the New Savannah Bluff
22 Lock and Dam on completion of construction of
23 the structure; and

24 (B) conveyance by the Secretary to Au-
25 gusta-Richmond County, Georgia, of the park

1 and recreation area adjacent to the New Savan-
2 nah Bluff Lock and Dam, without consider-
3 ation.

4 (2) NON-FEDERAL COST SHARE.—The Federal
5 share of the cost of any Project feature constructed
6 pursuant to paragraph (1) shall be not greater than
7 the share as provided by section 7002(1) of the
8 Water Resources Reform and Development Act of
9 2014 (Public Law 113–121; 128 Stat. 1364) for the
10 most cost-effective fish passage structure.

11 (3) OPERATION AND MAINTENANCE COSTS.—
12 The Federal share of the costs of operation and
13 maintenance of any Project feature constructed pur-
14 suant to paragraph (1) shall be consistent with the
15 cost sharing of the Project as provided by law.

16 **SEC. 1320. HAMILTON CITY, CALIFORNIA.**

17 Section 1001(8) of the Water Resources Development
18 Act of 2007 (121 Stat. 1050) is modified to authorize the
19 Secretary to construct the project at a total cost of
20 \$91,000,000, with an estimated Federal cost of
21 \$59,735,061 and an estimated non-Federal cost of
22 \$31,264,939.

23 **SEC. 1321. CONVEYANCES.**

24 (a) PEARL RIVER, MISSISSIPPI AND LOUISIANA.—

1 (1) IN GENERAL.—The project for navigation,
2 Pearl River, Mississippi and Louisiana, authorized
3 by the first section of the Act of August 30, 1935
4 (49 Stat. 1033, chapter 831), and section 101 of the
5 River and Harbor Act of 1966 (Public Law 89–789;
6 80 Stat. 1405), is no longer authorized as a Federal
7 project beginning on the date of enactment of this
8 Act.

9 (2) TRANSFER.—

10 (A) IN GENERAL.—Subject to subpara-
11 graphs (B) and (C), the Secretary is authorized
12 to convey to a State or local interest, without
13 consideration, all right, title, and interest of the
14 United States in and to—

15 (i) any land in which the Federal Gov-
16 ernment has a property interest for the
17 project described in paragraph (1); and

18 (ii) improvements to the land de-
19 scribed in clause (i).

20 (B) RESPONSIBILITY FOR COSTS.—The
21 transferee shall be responsible for the payment
22 of all costs and administrative expenses associ-
23 ated with any transfer carried out pursuant to
24 subparagraph (A), including costs associated
25 with any land survey required to determine the

1 exact acreage and legal description of the land
2 and improvements to be transferred.

3 (C) OTHER TERMS AND CONDITIONS.—A
4 transfer under subparagraph (A) shall be sub-
5 ject to such other terms and conditions as the
6 Secretary determines to be necessary and ap-
7 propriate to protect the interests of the United
8 States.

9 (3) REVERSION.—If the Secretary determines
10 that the land and improvements conveyed under
11 paragraph (2) cease to be owned by the public, all
12 right, title, and interest in and to the land and im-
13 provements shall revert, at the discretion of the Sec-
14 retary, to the United States.

15 (b) SARDIS LAKE, MISSISSIPPI.—

16 (1) IN GENERAL.—The Secretary is authorized
17 to convey to the lessee, at full fair market value, all
18 right, title, and interest of the United States in and
19 to the property identified in the leases numbered
20 DACW38–1–15–7, DACW38–1–15–33, DACW38–
21 1–15–34, and DACW38–1–15–38, subject to such
22 terms and conditions as the Secretary determines to
23 be necessary and appropriate to protect the interests
24 of the United States.

1 (2) EASEMENT AND RESTRICTIVE COVENANT.—

2 The conveyance under paragraph (1) shall include—

3 (A) a restrictive covenant to require the
4 approval of the Secretary for any substantial
5 change in the use of the property; and

6 (B) a flowage easement.

7 (c) PENSACOLA DAM AND RESERVOIR, GRAND
8 RIVER, OKLAHOMA.—

9 (1) IN GENERAL.—Notwithstanding the Act of
10 June 28, 1938 (52 Stat. 1215, chapter 795), as
11 amended by section 3 of the Act of August 18, 1941
12 (55 Stat. 645, chapter 377), and notwithstanding
13 section 3 of the Act of July 31, 1946 (60 Stat. 744,
14 chapter 710), the Secretary shall convey, by quit-
15 claim deed and without consideration, to the Grand
16 River Dam Authority, an agency of the State of
17 Oklahoma, for flood control purposes, all right, title,
18 and interest of the United States in and to real
19 property under the administrative jurisdiction of the
20 Secretary acquired in connection with the Pensacola
21 Dam project, together with any improvements on the
22 property.

23 (2) FLOOD CONTROL PURPOSES.—If any inter-
24 est in the real property described in paragraph (1)
25 ceases to be managed for flood control or other pub-

1 lic purposes and is conveyed to a nonpublic entity,
2 the transferee, as part of the conveyance, shall pay
3 to the United States the fair market value for the
4 interest.

5 (3) NO EFFECT.—Nothing in this subsection—

6 (A) amends, modifies, or repeals any exist-
7 ing authority vested in the Federal Energy Reg-
8 ulatory Commission; or

9 (B) amends, modifies, or repeals any au-
10 thority of the Secretary or the Chief of Engi-
11 neers pursuant to section 7 of the Act of De-
12 cember 22, 1944 (33 U.S.C. 709).

13 (d) JOE POOL LAKE, TEXAS.—The Secretary shall
14 accept from the Trinity River Authority of Texas, if re-
15 ceived on or before December 31, 2016, \$31,344,841 as
16 payment in full of amounts owed to the United States,
17 including any accrued interest, for the approximately
18 61,747.1 acre-feet of water supply storage space in Joe
19 Pool Lake, Texas (previously known as Lakeview Lake),
20 for which payment has not commenced under Article 5.a
21 (relating to project investment costs) of contract number
22 DACW63–76–C–0106 as of the date of enactment of this
23 Act.

1 **SEC. 1322. EXPEDITED CONSIDERATION.**

2 (a) IN GENERAL.—Section 1011 of the Water Re-
3 sources Reform and Development Act of 2014 (33 U.S.C.
4 2341a) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)(C) by inserting “re-
7 store or” before “prevent the loss”; and

8 (B) in paragraph (2)—

9 (i) in the matter preceding subpara-
10 graph (A), by striking “the date of enact-
11 ment of this Act” and inserting “the date
12 of enactment of the Water Resources De-
13 velopment Act of 2016”; and

14 (ii) in subparagraph (A)(ii) by strik-
15 ing “that—” and all that follows through
16 “limited reevaluation report”; and

17 (2) in subsection (b)—

18 (A) in paragraph (1) by redesignating sub-
19 paragraphs (A) through (C) as clauses (i)
20 through (iii), respectively, and indenting appro-
21 priately;

22 (B) by redesignating paragraphs (1) and
23 (2) as subparagraphs (A) and (B), respectively,
24 and indenting appropriately;

1 (C) in the matter preceding subparagraph
2 (A) (as so redesignated) by striking “For” and
3 inserting the following:

4 “(1) IN GENERAL.—For”; and

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

6 “(2) EXPEDITED CONSIDERATION OF CUR-
7 RENTLY AUTHORIZED PROGRAMMATIC AUTHORI-
8 TIES.—Not later than 180 days after the date of en-
9 actment of the Water Resources Development Act of
10 2016, the Secretary shall submit to the Committee
11 on Environment and Public Works of the Senate
12 and the Committee on Transportation and Infra-
13 structure of the House of Representatives a report
14 that contains—

15 “(A) a list of all programmatic authorities
16 for aquatic ecosystem restoration or improve-
17 ment of the environment that—

18 “(i) were authorized or modified in
19 the Water Resources Development Act of
20 2007 (Public Law 110–114; 121 Stat.
21 1041) or any subsequent Act; and

22 “(ii) that meet the criteria described
23 in paragraph (1); and

24 “(B) a plan for expeditiously completing
25 the projects under the authorities described in

1 subparagraph (A), subject to available fund-
2 ing.”.

3 (b) EXPEDITED CONSIDERATION.—

4 (1) EXPEDITED COMPLETION OF FLOOD DAM-
5 AGE REDUCTION AND FLOOD RISK MANAGEMENT
6 PROJECTS.—For authorized projects with a primary
7 purpose of flood damage reduction and flood risk
8 management, the Secretary shall provide priority
9 funding for and expedite the completion of the fol-
10 lowing projects:

11 (A) Chicagoland Underflow Plan, Illinois,
12 including stage 2 of the McCook Reservoir, as
13 authorized by section 3(a)(5) of the Water Re-
14 sources Development Act of 1988 (Public Law
15 100–676; 102 Stat. 4013) and modified by sec-
16 tion 319 of the Water Resources Development
17 Act of 1996 (Public Law 104–303; 110 Stat.
18 3715) and section 501(b) of the Water Re-
19 sources Development Act of 1999 (Public Law
20 106–53; 113 Stat. 334).

21 (B) Cedar River, Cedar Rapids, Iowa, as
22 authorized by section 7002(2)(3) of the Water
23 Resources Reform and Development Act of
24 2014 (Public Law 113–121; 128 Stat. 1366).

1 (C) Comite River, Louisiana, authorized as
2 part of the project for flood control, Amite
3 River and Tributaries, Louisiana, by section
4 101(11) of the Water Resources Development
5 Act of 1992 (Public Law 102–580; 106 Stat.
6 4802) and modified by section 301(b)(5) of the
7 Water Resources Development Act of 1996
8 (Public Law 104–303; 110 Stat. 3709) and sec-
9 tion 371 of the Water Resources Development
10 Act of 1999 (Public Law 106–53; 113 Stat.
11 321).

12 (D) Amite River and Tributaries, Lou-
13 isiana, East Baton Rouge Parish Watershed, as
14 authorized by section 101(a)(21) of the Water
15 Resources Development Act of 1999 (Public
16 Law 106–53; 113 Stat. 277) and modified by
17 section 116 of title I of division D of Public
18 Law 108–7 (117 Stat. 140) and section 3074
19 of the Water Resources Development Act of
20 2007 (Public Law 110–114; 121 Stat. 1124).

21 (E) The projects described in paragraphs
22 (29) through (33) of section 212(e) of the
23 Water Resources Development Act of 1999 (33
24 U.S.C. 2332(e)).

1 (2) EXPEDITED COMPLETION OF FEASIBILITY
2 STUDIES.—The Secretary shall give priority funding
3 and expedite completion of the reports for the fol-
4 lowing projects, and, if the Secretary determines
5 that a project is justified in the completed report,
6 proceed directly to project preconstruction, engineer-
7 ing, and design in accordance with section 910 of
8 the Water Resources Development Act of 1986 (33
9 U.S.C. 2287):

10 (A) The project for navigation, St. George
11 Harbor, Alaska.

12 (B) The project for flood risk manage-
13 ment, Rahway River Basin, New Jersey.

14 (C) The Hudson-Raritan Estuary Com-
15 prehensive Restoration Project.

16 (D) The project for navigation, Mobile
17 Harbor, Alabama.

18 (E) The project for flood risk manage-
19 ment, Little Colorado River at Winslow, Navajo
20 County, Arizona.

21 (F) The project for flood risk management,
22 Lower San Joaquin River, California. In car-
23 rying out the feasibility study for the project,
24 the Secretary shall include Reclamation District
25 17 as part of the study.

1 (G) The project for flood risk management
2 and ecosystem restoration, Sacramento River
3 Flood Control System, California.

4 (H) The project for hurricane and storm
5 damage risk reduction, Ft. Pierce, Florida.

6 (I) The project for flood risk management,
7 Des Moines and Raccoon Rivers, Iowa.

8 (J) The project for navigation, Mississippi
9 River Ship Channel, Louisiana.

10 (K) The project for flood risk manage-
11 ment, North Branch Ecorse Creek, Wayne
12 County, Michigan.

13 (3) EXPEDITED COMPLETION OF POST-AUTHOR-
14 IZATION CHANGE REPORT.—The Secretary shall pro-
15 vide priority funding for, and expedite completion of,
16 a post-authorization change report for the project
17 for hurricane and storm damage risk reduction, New
18 Hanover County, North Carolina.

19 (4) COMPLETION OF PROJECTS UNDER CON-
20 STRUCTION BY NON-FEDERAL INTERESTS.—The
21 Secretary shall expedite review and decision on rec-
22 ommendations for the following projects for flood
23 damage reduction and flood risk management:

24 (A) Pearl River Basin, Mississippi, author-
25 ized by section 401(e)(3) of the Water Re-

1 sources Development Act of 1986 (Public Law
2 99–662; 100 Stat. 4132), as modified by sec-
3 tion 3104 of the Water Resources Development
4 Act of 2007 (Public Law 110–114; 121 Stat.
5 1134), submitted to the Secretary under section
6 211 of the Water Resources Development Act
7 of 1996 (33 U.S.C. 701b–13) (as in effect on
8 the day before the date of enactment of the
9 Water Resources Reform and Development Act
10 of 2014 (Public Law 113–121; 128 Stat.
11 1193)).

12 (B) Brays Bayou, Texas, authorized by
13 section 101(a)(21) of the Water Resources De-
14 velopment Act of 1990 (Public Law 101–640;
15 104 Stat. 4610), as modified by section
16 211(f)(6) of the Water Resources Development
17 Act of 1996 (33 U.S.C. 701b–13(f)(6)) (as in
18 effect on the day before the date of enactment
19 of the Water Resources Reform and Develop-
20 ment Act of 2014 (Public Law 113–121; 128
21 Stat. 1193)).

1 **Subtitle D—Water Resources**
 2 **Infrastructure**

3 **SEC. 1401. PROJECT AUTHORIZATIONS.**

4 The following projects for water resources develop-
 5 ment and conservation and other purposes, as identified
 6 in the reports titled “Report to Congress on Future Water
 7 Resources Development” submitted to Congress on Janu-
 8 ary 29, 2015, and January 29, 2016, respectively, pursu-
 9 ant to section 7001 of the Water Resources Reform and
 10 Development Act of 2014 (33 U.S.C. 2282d) or otherwise
 11 reviewed by Congress, are authorized to be carried out by
 12 the Secretary substantially in accordance with the plans,
 13 and subject to the conditions, described in the respective
 14 reports designated in this section:

15 (1) NAVIGATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. TX	Brazos Island Harbor	Nov. 3, 2014	Federal: \$121,023,000 Non-Federal: \$89,453,000 Total: \$210,476,000
2. LA	Calcasieu Lock	Dec. 2, 2014	Total: \$17,432,000 (to be derived ½ from the general fund of the Treasury and ½ from the Inland Waterways Trust Fund)
3. NH, ME	Portsmouth Harbor and Piscataqua River	Feb. 8, 2015	Federal: \$16,015,000 Non-Federal: \$5,338,000 Total: \$21,353,000

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
4. FL	Port Everglades	Jun. 25, 2015	Federal: \$229,770,000 Non-Federal: \$107,233,000 Total: \$337,003,000
5. AK	Little Diomedes Harbor	Aug. 10, 2015	Federal: \$26,394,000 Non-Federal: \$2,933,000 Total: \$29,327,000
6. SC	Charleston Har- bor	Sep. 8, 2015	Federal: \$231,239,000 Non-Federal: \$271,454,000 Total: \$502,693,000
7. AK	Craig Harbor	Mar. 16, 2016	Federal: \$29,456,000 Non-Federal: \$3,299,000 Total: \$32,755,000
8. PA	Upper Ohio	Sep. 12, 2016	Total: \$2,691,600,000 (to be derived ½ from the gen- eral fund of the Treasury and ½ from the Inland Waterways Trust Fund).

1 (2) FLOOD RISK MANAGEMENT.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. TX	Leon Creek Wa- tershed	Jun. 30, 2014	Federal: \$22,145,000 Non-Federal: \$11,925,000 Total: \$34,070,000
2. MO, KS	Armourdale and Central Indus- trial District Levee Units, Missouri River and Tributaries at Kansas Citys	Jan. 27, 2015	Federal: \$213,271,500 Non-Federal: \$114,838,500 Total: \$328,110,000
3. KS	City of Manhattan	Apr. 30, 2015	Federal: \$16,151,000 Non-Federal: \$8,697,000 Total: \$24,848,000

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
4. TN	Mill Creek	Oct. 16, 2015	Federal: \$17,950,000 Non-Federal: \$10,860,000 Total: \$28,810,000
5. KS	Upper Turkey Creek Basin	Dec. 22, 2015	Federal: \$25,610,000 Non-Federal: \$13,790,000 Total: \$39,400,000
6. NC	Princeville	Feb. 23, 2016	Federal: \$14,080,000 Non-Federal: \$7,582,000 Total: \$21,662,000
7. CA	American River Common Fea- tures	Apr. 26, 2016	Federal: \$890,046,900 Non-Federal: \$705,714,100 Total: \$1,595,761,000
8. CA	West Sacramento	Apr. 26, 2016	Federal: \$788,861,000 Non-Federal: \$424,772,000 Total: \$1,213,633,000.

1 (3) HURRICANE AND STORM DAMAGE RISK RE-
2 DUCTION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Initial Costs and Estimated Renourishment Costs
1. SC	Colleton County	Sep. 5, 2014	Initial Federal: \$14,448,000 Initial Non-Federal: \$7,780,000 Initial Total: \$22,228,000 Renourishment Federal: \$17,491,000 Renourishment Non-Federal: \$17,491,000 Renourishment Total: \$34,982,000

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Initial Costs and Estimated Renourishment Costs
2. FL	Flagler County	Dec. 23, 2014	Initial Federal: \$9,561,000 Initial Non-Federal: \$5,149,000 Initial Total: \$14,710,000 Renourishment Federal: \$15,814,000 Renourishment Non-Federal: \$15,815,000 Renourishment Total: \$31,629,000
3. NC	Carteret County	Dec. 23, 2014	Initial Federal: \$25,468,000 Initial Non-Federal: \$13,714,000 Initial Total: \$39,182,000 Renourishment Federal: \$120,428,000 Renourishment Non-Federal: \$120,429,000 Renourishment Total: \$240,857,000
4. NJ	Hereford Inlet to Cape May Inlet, Cape May County	Jan. 23, 2015	Initial Federal: \$14,823,000 Initial Non-Federal: \$7,981,000 Initial Total: \$22,804,000 Renourishment Federal: \$43,501,000 Renourishment Non-Federal: \$43,501,000 Renourishment Total: \$87,002,000
5. LA	West Shore Lake Pontchartrain	Jun. 12, 2015	Federal: \$483,496,650 Non-Federal: \$260,344,350 Total: \$743,841,000
6. CA	San Diego County	Apr. 26, 2016	Initial Federal: \$20,953,000 Initial Non-Federal: \$11,282,000 Initial Total: \$32,235,000 Renourishment Federal: \$70,785,000 Renourishment Non-Federal: \$70,785,000 Renourishment Total: \$141,570,000.

1 (4) ECOSYSTEM RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. FL	Central Everglades	Dec. 23, 2014	Federal: \$993,131,000 Non-Federal: \$991,544,000 Total: \$1,984,675,000
2. WA	Skokomish River	Dec. 14, 2015	Federal: \$13,168,000 Non-Federal: \$7,091,000 Total: \$20,259,000
3. WA	Puget Sound	Sep. 16, 2016	Federal: \$300,009,000 Non-Federal: \$161,543,000 Total: \$461,552,000.

2 (5) FLOOD RISK MANAGEMENT AND ECO-
3 SYSTEM RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. IL, WI	Upper Des Plaines River and Tributaries	Jun. 8, 2015	Federal: \$204,860,000 Non-Federal: \$110,642,000 Total: \$315,502,000.

4 (6) FLOOD RISK MANAGEMENT, ECOSYSTEM
5 RESTORATION, AND RECREATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. CA	South San Fran- cisco Bay Shoreline	Dec. 18, 2015	Federal: \$70,511,000 Non-Federal: \$106,689,000 Total: \$177,200,000.

6 (7) ECOSYSTEM RESTORATION AND RECRE-
7 ATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. OR	Willamette River	Dec. 14, 2015	Federal: \$19,531,000 Non-Federal: \$10,845,000 Total: \$30,376,000
2. CA	Los Angeles River	Dec. 18, 2015	Federal: \$373,413,500 Non-Federal: \$1,046,893,500 Total: \$1,420,307,000.

1 (8) HURRICANE AND STORM DAMAGE RISK RE-
2 DUCATION AND ECOSYSTEM RESTORATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. LA	Southwest Coastal Louisiana	Jul. 29, 2016	Federal: \$2,054,386,100 Non-Federal: \$1,106,207,900 Total: \$3,160,594,000.

3 (9) MODIFICATIONS AND OTHER PROJECTS.—

A. State	B. Name	C. Date of Decision Document	D. Estimated Costs
1. TX	Upper Trinity River	May 21, 2008	Federal: \$526,500,000 Non-Federal: \$283,500,000 Total: \$810,000,000
2. KS, MO	Turkey Creek Basin	May 13, 2016	Federal: \$101,491,650 Non-Federal: \$54,649,350 Total: \$156,141,000
3. KY	Ohio River Shore- line	May 13, 2016	Federal: \$20,309,900 Non-Federal: \$10,936,100 Total: \$31,246,000
4. MO	Blue River Basin	May 13, 2016	Federal: \$36,326,250 Non-Federal: \$12,108,750 Total: \$48,435,000

A. State	B. Name	C. Date of Decision Document	D. Estimated Costs
5. FL	Pieayune Strand	Jul. 15, 2016	Federal: \$313,166,000 Non-Federal: \$313,166,000 Total: \$626,332,000
6. MO	Swope Park Industrial Area, Blue River	Jul. 15, 2016	Federal: \$21,033,350 Non-Federal: \$11,325,650 Total: \$32,359,000
7. AZ	Rio de Flag, Flagstaff	Sep. 21, 2016	Federal: \$66,844,900 Non-Federal: \$36,039,100 Total: \$102,884,000
8. TX	Houston Ship Channel	Nov. 4, 2016	Federal: \$381,773,000 Non-Federal: \$127,425,000 Total: \$509,198,000.

1 SEC. 1402. SPECIAL RULES.

2 (a) **MILL CREEK.**—The portion of the project for
3 flood risk management, Mill Creek, Tennessee, authorized
4 by section 1401(2) of this Act that consists of measures
5 within the Mill Creek basin shall be carried out pursuant
6 to section 205 of the Flood Control Act of 1948 (33
7 U.S.C. 701s).

8 (b) **LOS ANGELES RIVER.**—The Secretary shall carry
9 out the project for ecosystem restoration and recreation,
10 Los Angeles River, California, authorized by section
11 1401(7) of this Act substantially in accordance with terms
12 and conditions described in the Report of the Chief of En-
13 gineers, dated December 18, 2015, including, notwith-
14 standing section 2008(c) of the Water Resources Develop-
15 ment Act of 2007 (Public Law 110–114; 121 Stat. 1074),
16 the recommended cost share.

1 (c) UPPER TRINITY RIVER.—Not more than
2 \$5,500,000 may be expended to carry out recreation fea-
3 tures of the Upper Trinity River project, Texas, author-
4 ized by section 1401(9) of this Act.

5 **TITLE II—WATER AND WASTE**
6 **ACT OF 2016**

7 **SEC. 2001. SHORT TITLE.**

8 This title may be cited as the “Water and Waste Act
9 of 2016”.

10 **SEC. 2002. DEFINITION OF ADMINISTRATOR.**

11 In this title, the term “Administrator” means the Ad-
12 ministrator of the Environmental Protection Agency.

13 **Subtitle A—Safe Drinking Water**

14 **SEC. 2101. SENSE OF CONGRESS ON APPROPRIATIONS LEV-**
15 **ELS.**

16 It is the sense of Congress that Congress should pro-
17 vide robust funding of capitalization grants to States to
18 fund those States’ drinking water treatment revolving loan
19 funds established under section 1452 of the Safe Drinking
20 Water Act (42 U.S.C. 300j–12) and the State water pollu-
21 tion control revolving funds established under title VI of
22 the Federal Water Pollution Control Act (33 U.S.C. 1381
23 et seq.).

1 **SEC. 2102. PRECONSTRUCTION WORK.**

2 Section 1452(a)(2) of the Safe Drinking Water Act
3 (42 U.S.C. 300j-12(a)(2)) is amended—

4 (1) in the fifth sentence, by striking “Of the
5 amount” and inserting the following:

6 “(F) LOAN ASSISTANCE.—Of the amount”;

7 (2) in the fourth sentence, by striking “The
8 funds” and inserting the following:

9 “(E) ACQUISITION OF REAL PROPERTY.—

10 The funds under this section”;

11 (3) in the third sentence, by striking “The
12 funds” and inserting the following:

13 “(D) WATER TREATMENT LOANS.—The
14 funds under this section”;

15 (4) in the second sentence, by striking “Finan-
16 cial assistance” and inserting the following:

17 “(B) LIMITATION.—Financial assistance”;

18 (5) in the first sentence, by striking “Except”
19 and inserting the following:

20 “(A) IN GENERAL.—Except”;

21 (6) in subparagraph (B) (as designated by
22 paragraph (4)), by striking “(not” and inserting
23 “(including expenditures for planning, design, and
24 associated preconstruction activities, including activi-
25 ties relating to the siting of the facility, but not”;
26 and

1 (7) by inserting after subparagraph (B) (as
2 designated by paragraph (4)) the following:

3 “(C) SALE OF BONDS.—Funds may also
4 be used by a public water system as a source
5 of revenue (restricted solely to interest earnings
6 of the applicable State loan fund) or security
7 for payment of the principal and interest on
8 revenue or general obligation bonds issued by
9 the State to provide matching funds under sub-
10 section (e), if the proceeds of the sale of the
11 bonds will be deposited in the State loan
12 fund.”.

13 **SEC. 2103. ADMINISTRATION OF STATE LOAN FUNDS.**

14 Section 1452(g)(2) of the Safe Drinking Water Act
15 (42 U.S.C. 300j–12(g)(2)) is amended—

16 (1) by redesignating subparagraphs (A) through
17 (D) as clauses (i) through (iv), respectively, and in-
18 denting the clauses appropriately;

19 (2) by striking the fifth sentence and inserting
20 the following:

21 “(D) ENFORCEMENT ACTIONS.—Funds
22 used under subparagraph (B)(ii) shall not be
23 used for enforcement actions.”;

24 (3) in the fourth sentence, by striking “An ad-
25 ditional” and inserting the following:

1 “(C) TECHNICAL ASSISTANCE.—An addi-
2 tional”;

3 (4) by striking the third sentence;

4 (5) in the second sentence, by striking “For fis-
5 cal year” and inserting the following:

6 “(B) ADDITIONAL USE OF FUNDS.—For
7 fiscal year”;

8 (6) by striking the first sentence and inserting
9 the following:

10 “(A) AUTHORIZATION.—

11 “(i) IN GENERAL.—For each fiscal
12 year, a State may use the amount de-
13 scribed in clause (ii)—

14 “(I) to cover the reasonable costs
15 of administration of the programs
16 under this section, including the re-
17 covery of reasonable costs expended to
18 establish a State loan fund that are
19 incurred after the date of enactment
20 of this section; and

21 “(II) to provide technical assist-
22 ance to public water systems within
23 the State.

1 “(ii) DESCRIPTION OF AMOUNT.—The
2 amount referred to in clause (i) is an
3 amount equal to the sum of—

4 “(I) the amount of any fees col-
5 lected by the State for use in accord-
6 ance with clause (i)(I), regardless of
7 the source; and

8 “(II) the greatest of—

9 “(aa) \$400,000;

10 “(bb) $\frac{1}{5}$ percent of the cur-
11 rent valuation of the fund; and

12 “(cc) an amount equal to 4
13 percent of all grant awards to the
14 fund under this section for the
15 fiscal year.”; and

16 (7) in subparagraph (B) (as redesignated by
17 paragraph (5))—

18 (A) in clause (iv) (as redesignated by para-
19 graph (1)), by striking “1419,” and inserting
20 “1419.”; and

21 (B) in the undesignated matter following
22 clause (iv) (as redesignated by paragraph (1)),
23 by striking “if the State” and all that follows
24 through “State funds.”.

1 **SEC. 2104. ASSISTANCE FOR SMALL AND DISADVANTAGED**
2 **COMMUNITIES.**

3 Part E of the Safe Drinking Water Act (42 U.S.C.
4 300j et seq.) is amended by adding at the end the fol-
5 lowing:

6 **“SEC. 1459A. ASSISTANCE FOR SMALL AND DISADVAN-**
7 **TAGED COMMUNITIES.**

8 **“(a) DEFINITION OF UNDERSERVED COMMUNITY.—**
9 In this section:

10 **“(1) IN GENERAL.—**The term ‘underserved
11 community’ means a political subdivision of a State
12 that, as determined by the Administrator, has an in-
13 adequate system for obtaining drinking water.

14 **“(2) INCLUSIONS.—**The term ‘underserved
15 community’ includes a political subdivision of a
16 State that either, as determined by the Adminis-
17 trator—

18 **“(A) does not have household drinking**
19 **water or wastewater services; or**

20 **“(B) is served by a public water system**
21 **that violates, or exceeds, as applicable, a re-**
22 **quirement of a national primary drinking water**
23 **regulation issued under section 1412, includ-**
24 **ing—**

25 **“(i) a maximum contaminant level;**

26 **“(ii) a treatment technique; and**

1 “(iii) an action level.

2 “(b) ESTABLISHMENT.—

3 “(1) IN GENERAL.—The Administrator shall es-
4 tablish a program under which grants are provided
5 to eligible entities for use in carrying out projects
6 and activities the primary purposes of which are to
7 assist public water systems in meeting the require-
8 ments of this title.

9 “(2) INCLUSIONS.—Projects and activities
10 under paragraph (1) include—

11 “(A) investments necessary for the public
12 water system to comply with the requirements
13 of this title;

14 “(B) assistance that directly and primarily
15 benefits the disadvantaged community on a per-
16 household basis; and

17 “(C) programs to provide household water
18 quality testing, including testing for unregu-
19 lated contaminants.

20 “(c) ELIGIBLE ENTITIES.—An eligible entity under
21 this section—

22 “(1) is—

23 “(A) a public water system;

24 “(B) a water system that is located in an
25 area governed by an Indian Tribe; or

1 “(C) a State, on behalf of an underserved
2 community; and

3 “(2) serves a community—

4 “(A) that, under affordability criteria es-
5 tablished by the State under section
6 1452(d)(3), is determined by the State—

7 “(i) to be a disadvantaged community;

8 or

9 “(ii) to be a community that may be-
10 come a disadvantaged community as a re-
11 sult of carrying out a project or activity
12 under subsection (b); or

13 “(B) with a population of less than 10,000
14 individuals that the Administrator determines
15 does not have the capacity to incur debt suffi-
16 cient to finance a project or activity under sub-
17 section (b).

18 “(d) PRIORITY.—In prioritizing projects and activi-
19 ties for implementation under this section, the Adminis-
20 trator shall give priority to projects and activities that
21 benefit underserved communities.

22 “(e) LOCAL PARTICIPATION.—In prioritizing projects
23 and activities for implementation under this section, the
24 Administrator shall consult with and consider the prior-
25 ities of States, Indian Tribes, and local governments in

1 which communities described in subsection (c)(2) are lo-
2 cated.

3 “(f) TECHNICAL, MANAGERIAL, AND FINANCIAL CA-
4 PABILITY.—The Administrator may provide assistance to
5 increase the technical, managerial, and financial capability
6 of an eligible entity receiving a grant under this section
7 if the Administrator determines that the eligible entity
8 lacks appropriate technical, managerial, or financial capa-
9 bility and is not receiving such assistance under another
10 Federal program.

11 “(g) COST SHARING.—Before providing a grant to an
12 eligible entity under this section, the Administrator shall
13 enter into a binding agreement with the eligible entity to
14 require the eligible entity—

15 “(1) to pay not less than 45 percent of the total
16 costs of the project or activity, which may include
17 services, materials, supplies, or other in-kind con-
18 tributions;

19 “(2) to provide any land, easements, rights-of-
20 way, and relocations necessary to carry out the
21 project or activity; and

22 “(3) to pay 100 percent of any operation and
23 maintenance costs associated with the project or ac-
24 tivity.

1 “(h) WAIVER.—The Administrator may waive, in
2 whole or in part, the requirement under subsection (g)(1)
3 if the Administrator determines that an eligible entity is
4 unable to pay, or would experience significant financial
5 hardship if required to pay, the non-Federal share.

6 “(i) LIMITATION ON USE OF FUNDS.—Not more
7 than 4 percent of funds made available for grants under
8 this section may be used to pay the administrative costs
9 of the Administrator.

10 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this section,
12 \$60,000,000 for each of fiscal years 2017 through 2021.”.

13 **SEC. 2105. REDUCING LEAD IN DRINKING WATER.**

14 Part E of the Safe Drinking Water Act (42 U.S.C.
15 300j et seq.) is further amended by adding at the end the
16 following:

17 **“SEC. 1459B. REDUCING LEAD IN DRINKING WATER.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
20 tity’ means—

21 “(A) a community water system;

22 “(B) a water system located in an area
23 governed by an Indian Tribe;

24 “(C) a nontransient noncommunity water
25 system;

1 “(D) a qualified nonprofit organization, as
2 determined by the Administrator, servicing a
3 public water system; and

4 “(E) a municipality or State, interstate, or
5 intermunicipal agency.

6 “(2) LEAD REDUCTION PROJECT.—

7 “(A) IN GENERAL.—The term ‘lead reduc-
8 tion project’ means a project or activity the pri-
9 mary purpose of which is to reduce the con-
10 centration of lead in water for human consump-
11 tion by—

12 “(i) replacement of publicly owned
13 lead service lines;

14 “(ii) testing, planning, or other rel-
15 evant activities, as determined by the Ad-
16 ministrator, to identify and address condi-
17 tions (including corrosion control) that
18 contribute to increased concentration of
19 lead in water for human consumption; and

20 “(iii) providing assistance to low-in-
21 come homeowners to replace lead service
22 lines.

23 “(B) LIMITATION.—The term ‘lead reduc-
24 tion project’ does not include a partial lead
25 service line replacement if, at the conclusion of

1 the service line replacement, drinking water is
2 delivered to a household through a publicly or
3 privately owned portion of a lead service line.

4 “(3) LOW-INCOME.—The term ‘low-income’,
5 with respect to an individual provided assistance
6 under this section, has such meaning as may be
7 given the term by the Governor of the State in which
8 the eligible entity is located, based upon the afford-
9 ability criteria established by the State under section
10 1452(d)(3).

11 “(4) LEAD SERVICE LINE.—The term ‘lead
12 service line’ means a pipe and its fittings, which are
13 not lead free (as defined in section 1417(d)), that
14 connect the drinking water main to the building
15 inlet.

16 “(5) NONTRANSIENT NONCOMMUNITY WATER
17 SYSTEM.—The term ‘nontransient noncommunity
18 water system’ means a public water system that is
19 not a community water system and that regularly
20 serves at least 25 of the same persons over 6 months
21 per year.

22 “(b) GRANT PROGRAM.—

23 “(1) ESTABLISHMENT.—The Administrator
24 shall establish a grant program to provide assistance

1 to eligible entities for lead reduction projects in the
2 United States.

3 “(2) PRECONDITION.—As a condition of receipt
4 of assistance under this section, an eligible entity
5 shall take steps to identify—

6 “(A) the source of lead in the public water
7 system that is subject to human consumption;
8 and

9 “(B) the means by which the proposed lead
10 reduction project would meaningfully reduce the
11 concentration of lead in water provided for
12 human consumption by the applicable public
13 water system.

14 “(3) PRIORITY APPLICATION.—In providing
15 grants under this subsection, the Administrator shall
16 give priority to an eligible entity that—

17 “(A) the Administrator determines, based
18 on affordability criteria established by the State
19 under section 1452(d)(3), to be a disadvantaged
20 community; and

21 “(B) proposes to—

22 “(i) carry out a lead reduction project
23 at a public water system or nontransient
24 noncommunity water system that has ex-
25 ceeded the lead action level established by

1 the Administrator under section 1412 at
2 any time during the 3-year period pre-
3 ceding the date of submission of the appli-
4 cation of the eligible entity; or

5 “(ii) address lead levels in water for
6 human consumption at a school, daycare,
7 or other facility that primarily serves chil-
8 dren or other vulnerable human subpopula-
9 tion described in section 1458(a)(1).

10 “(4) COST SHARING.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the non-Federal share of the total
13 cost of a project funded by a grant under this
14 subsection shall be not less than 20 percent.

15 “(B) WAIVER.—The Administrator may
16 reduce or eliminate the non-Federal share
17 under subparagraph (A) for reasons of afford-
18 ability, as the Administrator determines to be
19 appropriate.

20 “(5) LOW-INCOME ASSISTANCE.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), an eligible entity may use a grant
23 provided under this subsection to provide assist-
24 ance to low-income homeowners to replace the
25 lead service lines of such homeowners.

1 “(B) LIMITATION.—The amount of a
2 grant provided to a low-income homeowner
3 under this paragraph shall not exceed the
4 standard cost of replacement of the privately
5 owned portion of the lead service line.

6 “(6) SPECIAL CONSIDERATION FOR LEAD SERV-
7 ICE LINE REPLACEMENT.—In carrying out lead serv-
8 ice line replacement using a grant under this sub-
9 section, an eligible entity—

10 “(A) shall notify customers of the replace-
11 ment of any publicly owned portion of the lead
12 service line;

13 “(B) may, in the case of a homeowner who
14 is not low-income, offer to replace the privately
15 owned portion of the lead service line at the
16 cost of replacement for that homeowner’s prop-
17 erty;

18 “(C) may, in the case of a low-income
19 homeowner, offer to replace the privately owned
20 portion of the lead service line at a cost that is
21 equal to the difference between—

22 “(i) the cost of replacement; and

23 “(ii) the amount of assistance avail-
24 able to the low-income homeowner under
25 paragraph (5);

1 “(D) shall notify each customer that a
2 planned replacement of any publicly owned por-
3 tion of a lead service line that is funded by a
4 grant made under this subsection will not be
5 carried out unless the customer agrees to the si-
6 multaneous replacement of the privately owned
7 portion of the lead service line; and

8 “(E) shall demonstrate that the eligible en-
9 tity has considered other options for reducing
10 the concentration of lead in its drinking water,
11 including an evaluation of options for corrosion
12 control.

13 “(c) LIMITATION ON USE OF FUNDS.—Not more
14 than 4 percent of funds made available for grants under
15 this section may be used to pay the administrative costs
16 of the Administrator.

17 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
18 is authorized to be appropriated to carry out this section
19 \$60,000,000 for each of fiscal years 2017 through 2021.

20 “(e) SAVINGS CLAUSE.—Nothing in this section af-
21 fects whether a public water system is responsible for the
22 replacement of a lead service line that is—

23 “(1) subject to the control of the public water
24 system; and

25 “(2) located on private property.”.

1 **SEC. 2106. NOTICE TO PERSONS SERVED.**

2 (a) ENFORCEMENT OF DRINKING WATER REGULA-
3 TIONS.—Section 1414(c) of the Safe Drinking Water Act
4 (42 U.S.C. 300g–3(c)) is amended—

5 (1) in the subsection heading, by striking “NO-
6 TICE TO” and inserting “NOTICE TO STATES, THE
7 ADMINISTRATOR, AND”;

8 (2) in paragraph (1)—

9 (A) in subparagraph (C), by striking
10 “paragraph (2)(E)” and inserting “paragraph
11 (2)(F)”; and

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

13 “(D) Notice that the public water system
14 exceeded the lead action level under section
15 141.80(c) of title 40, Code of Federal Regula-
16 tions (or a prescribed level of lead that the Ad-
17 ministrator establishes for public education or
18 notification in a successor regulation promul-
19 gated pursuant to section 1412).”;

20 (3) in paragraph (2)—

21 (A) in subparagraph (B)(i)(II), by striking
22 “subparagraph (D)” and inserting “subpara-
23 graph (E)”;

24 (B) in subparagraph (C)—

1 (i) in the subparagraph heading, by
2 striking “VIOLATIONS” and inserting “NO-
3 TICE OF VIOLATIONS OR EXCEEDANCES”;

4 (ii) in the matter preceding clause
5 (i)—

6 (I) in the first sentence, by strik-
7 ing “violation” and inserting “viola-
8 tion, and each exceedance described in
9 paragraph (1)(D),”; and

10 (II) in the second sentence, by
11 striking “violation” and inserting
12 “violation or exceedance”;

13 (iii) by striking clause (i) and insert-
14 ing the following:

15 “(i) be distributed as soon as prac-
16 ticable, but not later than 24 hours, after
17 the public water system learns of the viola-
18 tion or exceedance;”;

19 (iv) in clause (ii), by inserting “or ex-
20 ceedance” after “violation” each place it
21 appears;

22 (v) by striking clause (iii) and insert-
23 ing the following:

24 “(iii) be provided to the Administrator
25 and the head of the State agency that has

1 primary enforcement responsibility under
2 section 1413, as applicable, as soon as
3 practicable, but not later than 24 hours
4 after the public water system learns of the
5 violation or exceedance; and”;

6 (vi) in clause (iv)—

7 (I) in subclause (I), by striking
8 “broadcast media” and inserting
9 “media, including broadcast media”;
10 and

11 (II) in subclause (III), by strik-
12 ing “in lieu of notification by means
13 of broadcast media or newspaper”;

14 (C) by redesignating subparagraphs (D)
15 and (E) as subparagraphs (E) and (F), respec-
16 tively; and

17 (D) by inserting after subparagraph (C)
18 the following:

19 “(D) NOTICE BY THE ADMINISTRATOR.—If
20 the State with primary enforcement responsi-
21 bility or the owner or operator of a public water
22 system has not issued a notice under subpara-
23 graph (C) for an exceedance of the lead action
24 level under section 141.80(c) of title 40, Code
25 of Federal Regulations (or a prescribed level of

1 lead that the Administrator establishes for pub-
2 lic education or notification in a successor regu-
3 lation promulgated pursuant to section 1412)
4 that has the potential to have serious adverse
5 effects on human health as a result of short-
6 term exposure, not later than 24 hours after
7 the Administrator is notified of the exceedance,
8 the Administrator shall issue the required no-
9 tice under that subparagraph.”;

10 (4) in paragraph (3)(B), in the first sentence—

11 (A) by striking “subparagraph (A) and”
12 and inserting “subparagraph (A),”; and

13 (B) by striking “subparagraph (C) or (D)
14 of paragraph (2)” and inserting “subparagraph
15 (C) or (E) of paragraph (2), and notices issued
16 by the Administrator with respect to public
17 water systems serving Indian Tribes under sub-
18 paragraph (D) of that paragraph”;

19 (5) in paragraph (4)(B)—

20 (A) in clause (ii), by striking “the terms”
21 and inserting “the terms ‘action level’,”;

22 (B) by striking clause (iii) and inserting
23 the following:

24 “(iii) If any regulated contaminant is
25 detected in the water purveyed by the pub-

1 lic water system, a statement describing,
2 as applicable—

3 “(I) the maximum contaminant
4 level goal;

5 “(II) the maximum contaminant
6 level;

7 “(III) the level of the contami-
8 nant in the water system;

9 “(IV) the action level for the con-
10 taminant; and

11 “(V) for any contaminant for
12 which there has been a violation of
13 the maximum contaminant level dur-
14 ing the year concerned, a brief state-
15 ment in plain language regarding the
16 health concerns that resulted in regu-
17 lation of the contaminant, as provided
18 by the Administrator in regulations
19 under subparagraph (A).”; and

20 (C) in the undesignated matter following
21 clause (vi), in the second sentence, by striking
22 “subclause (IV) of clause (iii)” and inserting
23 “clause (iii)(V)”; and

24 (6) by adding at the end the following:

1 “(5) EXCEEDANCE OF LEAD LEVEL AT HOUSE-
2 HOLDS.—

3 “(A) STRATEGIC PLAN.—Not later than
4 180 days after the date of enactment of this
5 paragraph, the Administrator shall, in collabo-
6 ration with owners and operators of public
7 water systems and States, establish a strategic
8 plan for how the Administrator, a State with
9 primary enforcement responsibility, and owners
10 and operators of public water systems shall pro-
11 vide targeted outreach, education, technical as-
12 sistance, and risk communication to populations
13 affected by the concentration of lead in a public
14 water system, including dissemination of infor-
15 mation described in subparagraph (C).

16 “(B) EPA INITIATION OF NOTICE.—

17 “(i) FORWARDING OF DATA BY EM-
18 PLOYEE OF THE AGENCY.—If the Agency
19 develops, or receives from a source other
20 than a State or a public water system,
21 data that meets the requirements of sec-
22 tion 1412(b)(3)(A)(ii) that indicates that
23 the drinking water of a household served
24 by a public water system contains a level
25 of lead that exceeds the lead action level

1 under section 141.80(c) of title 40, Code of
2 Federal Regulations (or a prescribed level
3 of lead that the Administrator establishes
4 for public education or notification in a
5 successor regulation promulgated pursuant
6 to section 1412) (referred to in this para-
7 graph as an ‘affected household’), the Ad-
8 ministrator shall require an appropriate
9 employee of the Agency to forward the
10 data, and information on the sampling
11 techniques used to obtain the data, to the
12 owner or operator of the public water sys-
13 tem and the State in which the affected
14 household is located within a time period
15 determined by the Administrator.

16 “(ii) DISSEMINATION OF INFORMA-
17 TION BY OWNER OR OPERATOR.—The
18 owner or operator of a public water system
19 shall disseminate to affected households
20 the information described in subparagraph
21 (C) within a time period established by the
22 Administrator, if the owner or operator—

23 “(I) receives data and informa-
24 tion under clause (i); and

1 “(II) has not, since the date of
2 the test that developed the data, noti-
3 fied the affected households—

4 “(aa) with respect to the
5 concentration of lead in the
6 drinking water of the affected
7 households; and

8 “(bb) that the concentration
9 of lead in the drinking water of
10 the affected households exceeds
11 the lead action level under sec-
12 tion 141.80(c) of title 40, Code
13 of Federal Regulations (or a pre-
14 scribed level of lead that the Ad-
15 ministrator establishes for public
16 education or notification in a suc-
17 cessor regulation promulgated
18 pursuant to section 1412).

19 “(iii) CONSULTATION.—

20 “(I) DEADLINE.—If the owner or
21 operator of the public water system
22 does not disseminate to the affected
23 households the information described
24 in subparagraph (C) as required
25 under clause (ii) within the time pe-

1 riod established by the Administrator,
2 not later than 24 hours after the Ad-
3 ministrator becomes aware of the fail-
4 ure by the owner or operator of the
5 public water system to disseminate
6 the information, the Administrator
7 shall consult, within a period not to
8 exceed 24 hours, with the applicable
9 Governor to develop a plan, in accord-
10 ance with the strategic plan, to dis-
11 seminate the information to the af-
12 fected households not later than 24
13 hours after the end of the consultation
14 period.

15 “(II) DELEGATION.—The Ad-
16 ministrator may only delegate the
17 duty to consult under subclause (I) to
18 an employee of the Agency who, as of
19 the date of the delegation, works in
20 the Office of Water at the head-
21 quarters of the Agency.

22 “(iv) DISSEMINATION BY ADMINIS-
23 TRATOR.—The Administrator shall, as
24 soon as practicable, disseminate to affected

1 households the information described in
2 subparagraph (C) if—

3 “(I) the owner or operator of the
4 public water system does not dissemi-
5 nate the information to the affected
6 households within the time period de-
7 termined by the Administrator, as re-
8 quired by clause (ii); and

9 “(II)(aa) the Administrator and
10 the applicable Governor do not agree
11 on a plan described in clause (iii)(I)
12 during the consultation period under
13 that clause; or

14 “(bb) the applicable Governor
15 does not disseminate the information
16 within 24 hours after the end of the
17 consultation period.

18 “(C) INFORMATION REQUIRED.—The in-
19 formation described in this subparagraph in-
20 cludes—

21 “(i) a clear explanation of the poten-
22 tial adverse effects on human health of
23 drinking water that contains a concentra-
24 tion of lead that exceeds the lead action
25 level under section 141.80(c) of title 40,

1 Code of Federal Regulations (or a pre-
2 scribed level of lead that the Administrator
3 establishes for public education or notifica-
4 tion in a successor regulation promulgated
5 pursuant to section 1412);

6 “(ii) the steps that the owner or oper-
7 ator of the public water system is taking to
8 mitigate the concentration of lead; and

9 “(iii) the necessity of seeking alter-
10 native water supplies until the date on
11 which the concentration of lead is miti-
12 gated.

13 “(6) PRIVACY.—Any notice to the public or an
14 affected household under this subsection shall pro-
15 tect the privacy of individual customer informa-
16 tion.”.

17 (b) PROHIBITION ON USE OF LEAD PIPES, SOLDER,
18 AND FLUX.—Section 1417 of the Safe Drinking Water
19 Act (42 U.S.C. 300g–6) is amended by adding at the end
20 the following:

21 “(f) PUBLIC EDUCATION.—

22 “(1) IN GENERAL.—The Administrator shall
23 make information available to the public regarding
24 lead in drinking water, including information regard-
25 ing—

1 “(A) risks associated with lead in drinking
2 water;

3 “(B) the conditions that contribute to
4 drinking water containing lead in a residence;

5 “(C) steps that States, public water sys-
6 tems, and consumers can take to reduce the
7 risks of lead in drinking water; and

8 “(D) the availability of additional re-
9 sources that consumers can use to minimize
10 lead exposure, including information on sam-
11 pling for lead in drinking water.

12 “(2) VULNERABLE POPULATIONS.—In making
13 information available to the public under this sub-
14 section, the Administrator shall, subject to the avail-
15 ability of appropriations, carry out targeted outreach
16 strategies that focus on educating groups within the
17 general population that may be at greater risk than
18 the general population of adverse health effects from
19 exposure to lead in drinking water.”.

20 **SEC. 2107. LEAD TESTING IN SCHOOL AND CHILD CARE**
21 **PROGRAM DRINKING WATER.**

22 (a) IN GENERAL.—Section 1464 of the Safe Drink-
23 ing Water Act (42 U.S.C. 300j–24) is amended by striking
24 subsection (d) and inserting the following:

1 “(d) VOLUNTARY SCHOOL AND CHILD CARE PRO-
2 GRAM LEAD TESTING GRANT PROGRAM.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) CHILD CARE PROGRAM.—The term
5 ‘child care program’ has the meaning given the
6 term ‘early childhood education program’ in
7 section 103(8) of the Higher Education Act of
8 1965 (20 U.S.C. 1003(8)).

9 “(B) LOCAL EDUCATIONAL AGENCY.—The
10 term ‘local educational agency’ means—

11 “(i) a local educational agency (as de-
12 fined in section 8101 of the Elementary
13 and Secondary Education Act of 1965 (20
14 U.S.C. 7801));

15 “(ii) a tribal education agency (as de-
16 fined in section 3 of the National Environ-
17 mental Education Act (20 U.S.C. 5502));
18 and

19 “(iii) a person that owns or operates
20 a child care program facility.

21 “(2) ESTABLISHMENT.—

22 “(A) IN GENERAL.—Not later than 180
23 days after the date of enactment of the Water
24 and Waste Act of 2016, the Administrator shall
25 establish a voluntary school and child care pro-

1 gram lead testing grant program to make
2 grants available to States to assist local edu-
3 cational agencies in voluntary testing for lead
4 contamination in drinking water at schools and
5 child care programs under the jurisdiction of
6 the local educational agencies.

7 “(B) DIRECT GRANTS TO LOCAL EDU-
8 CATIONAL AGENCIES.—The Administrator may
9 make a grant for the voluntary testing de-
10 scribed in subparagraph (A) directly available
11 to—

12 “(i) any local educational agency de-
13 scribed in clause (i) or (iii) of paragraph
14 (1)(B) located in a State that does not
15 participate in the voluntary grant program
16 established under subparagraph (A); or

17 “(ii) any local educational agency de-
18 scribed in clause (ii) of paragraph (1)(B).

19 “(3) APPLICATION.—To be eligible to receive a
20 grant under this subsection, a State or local edu-
21 cational agency shall submit to the Administrator an
22 application at such time, in such manner, and con-
23 taining such information as the Administrator may
24 require.

1 “(4) LIMITATION ON USE OF FUNDS.—Not
2 more than 4 percent of grant funds accepted by a
3 State or local educational agency for a fiscal year
4 under this subsection shall be used to pay the ad-
5 ministrative costs of carrying out this subsection.

6 “(5) GUIDANCE; PUBLIC AVAILABILITY.—As a
7 condition of receiving a grant under this subsection,
8 the recipient State or local educational agency shall
9 ensure that each local educational agency to which
10 grant funds are distributed shall—

11 “(A) expend grant funds in accordance
12 with—

13 “(i) the guidance of the Environ-
14 mental Protection Agency entitled ‘3Ts for
15 Reducing Lead in Drinking Water in
16 Schools: Revised Technical Guidance’ and
17 dated October 2006 (or any successor
18 guidance); or

19 “(ii) applicable State regulations or
20 guidance regarding reducing lead in drink-
21 ing water in schools and child care pro-
22 grams that are not less stringent than the
23 guidance referred to in clause (i); and

24 “(B)(i) make available, if applicable, in the
25 administrative offices and, to the extent prac-

1 ticable, on the Internet website of the local edu-
2 cational agency for inspection by the public (in-
3 cluding teachers, other school personnel, and
4 parents) a copy of the results of any voluntary
5 testing for lead contamination in school and
6 child care program drinking water carried out
7 using grant funds under this subsection; and

8 “(ii) notify parent, teacher, and employee
9 organizations of the availability of the results
10 described in clause (i).

11 “(6) MAINTENANCE OF EFFORT.—If resources
12 are available to a State or local educational agency
13 from any other Federal agency, a State, or a private
14 foundation for testing for lead contamination in
15 drinking water, the State or local educational agency
16 shall demonstrate that the funds provided under this
17 subsection will not displace those resources.

18 “(7) AUTHORIZATION OF APPROPRIATIONS.—
19 There is authorized to be appropriated to carry out
20 this subsection \$20,000,000 for each of fiscal years
21 2017 through 2021.”.

22 (b) REPEAL.—Section 1465 of the Safe Drinking
23 Water Act (42 U.S.C. 300j–25) is repealed.

1 **SEC. 2108. WATER SUPPLY COST SAVINGS.**

2 (a) DRINKING WATER TECHNOLOGY CLEARING-
3 HOUSE.—The Administrator, in consultation with the Sec-
4 retary of Agriculture, shall—

5 (1) develop a technology clearinghouse for infor-
6 mation on the cost-effectiveness of innovative and al-
7 ternative drinking water delivery systems, including
8 wells and well systems; and

9 (2) disseminate such information to the public
10 and to communities and not-for-profit organizations
11 seeking Federal funding for drinking water delivery
12 systems serving 500 or fewer persons.

13 (b) WATER SYSTEM ASSESSMENT.—In any applica-
14 tion for a grant or loan for the purpose of construction,
15 replacement, or rehabilitation of a drinking water delivery
16 system serving 500 or fewer persons, the funding for
17 which would come from the Federal Government (either
18 directly or through a State), a unit of local government
19 or not-for-profit organization shall self-certify that the
20 unit of local government or organization has considered,
21 as an alternative drinking water supply, drinking water
22 delivery systems sourced by publicly owned—

23 (1) individual wells;

24 (2) shared wells; and

25 (3) community wells.

1 (c) REPORT TO CONGRESS.—Not later than 3 years
2 after the date of enactment of this Act, the Comptroller
3 General of the United States shall submit to Congress a
4 report that describes—

5 (1) the use of innovative and alternative drink-
6 ing water delivery systems described in this section;

7 (2) the range of cost savings for communities
8 using innovative and alternative drinking water de-
9 livery systems described in this section; and

10 (3) the use of drinking water technical assist-
11 ance programs operated by the Administrator and
12 the Secretary of Agriculture.

13 **SEC. 2109. INNOVATION IN THE PROVISION OF SAFE DRINK-**
14 **ING WATER.**

15 (a) INNOVATIVE WATER TECHNOLOGIES.—Section
16 1442(a)(1) of the Safe Drinking Water Act (42 U.S.C.
17 300j–1(a)(1)) is amended—

18 (1) in subparagraph (D), by striking “; and”
19 and inserting a semicolon;

20 (2) by striking the period at the end of sub-
21 paragraph (E) and inserting “; and”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(F) innovative water technologies (including
25 technologies to improve water treatment to ensure

1 compliance with this title and technologies to iden-
2 tify and mitigate sources of drinking water contami-
3 nation, including lead contamination).”.

4 (b) TECHNICAL ASSISTANCE.—Section 1442 of the
5 Safe Drinking Water Act (42 U.S.C. 300j-1) is amend-
6 ed—

7 (1) in the heading for subsection (e), by insert-
8 ing “TO SMALL PUBLIC WATER SYSTEMS” after
9 “ASSISTANCE”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(f) TECHNICAL ASSISTANCE FOR INNOVATIVE
13 WATER TECHNOLOGIES.—

14 “(1) The Administrator may provide technical
15 assistance to public water systems to facilitate use
16 of innovative water technologies.

17 “(2) There are authorized to be appropriated to
18 the Administrator for use in providing technical as-
19 sistance under paragraph (1) \$10,000,000 for each
20 of fiscal years 2017 through 2021.”.

21 (c) REPORT.—Not later than 1 year after the date
22 of enactment of the Water and Waste Act of 2016, and
23 not less frequently than every 5 years thereafter, the Ad-
24 ministrator shall report to Congress on—

1 (1) the amount of funding used to provide tech-
2 nical assistance under section 1442(f) of the Safe
3 Drinking Water Act to deploy innovative water tech-
4 nologies;

5 (2) the barriers impacting greater use of inno-
6 vative water technologies; and

7 (3) the cost-saving potential to cities and future
8 infrastructure investments from innovative water
9 technologies.

10 **SEC. 2110. SMALL SYSTEM TECHNICAL ASSISTANCE.**

11 Section 1452(q) of the Safe Drinking Water Act (42
12 U.S.C. 300j–12(q)) is amended by striking “appro-
13 priated” and all that follows through “2003” and insert-
14 ing “made available to carry out this section for each of
15 fiscal years 2016 through 2021”.

16 **SEC. 2111. DEFINITION OF INDIAN TRIBE.**

17 Section 1401(14) of the Safe Drinking Water Act (42
18 U.S.C. 300(f)(14)) is amended by striking “section 1452”
19 and inserting “sections 1452, 1459A, and 1459B”.

20 **SEC. 2112. TECHNICAL ASSISTANCE FOR TRIBAL WATER**
21 **SYSTEMS.**

22 (a) **TECHNICAL ASSISTANCE.**—Section 1442(e)(7) of
23 the Safe Drinking Water Act (42 U.S.C. 300j–1(e)(7)) is
24 amended by striking “Tribes” and inserting “Tribes, in-

1 cluding grants to provide training and operator certifi-
2 cation services under section 1452(i)(5)”.

3 (b) INDIAN TRIBES.—Section 1452(i) of the Safe
4 Drinking Water Act (42 U.S.C. 300j–12(i)) is amended—

5 (1) in paragraph (1)—

6 (A) in the first sentence, by striking
7 “Tribes and Alaska Native villages” and insert-
8 ing “Tribes, Alaska Native villages, and, for the
9 purpose of carrying out paragraph (5), inter-
10 tribal consortia or tribal organizations,”; and

11 (B) in the second sentence, by striking
12 “The grants” and inserting “Except as other-
13 wise provided, the grants”; and

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

15 “(5) TRAINING AND OPERATOR CERTIFI-
16 CATION.—

17 “(A) IN GENERAL.—The Administrator
18 may use funds made available under this sub-
19 section and section 1442(e)(7) to make grants
20 to intertribal consortia or tribal organizations
21 for the purpose of providing operations and
22 maintenance training and operator certification
23 services to Indian Tribes to enable public water
24 systems that serve Indian Tribes to achieve and

1 maintain compliance with applicable national
2 primary drinking water regulations.

3 “(B) ELIGIBLE TRIBAL ORGANIZATIONS.—
4 Intertribal consortia or tribal organizations eli-
5 gible for a grant under subparagraph (A) are
6 intertribal consortia or tribal organizations
7 that—

8 “(i) as determined by the Adminis-
9 trator, are the most qualified and experi-
10 enced to provide training and technical as-
11 sistance to Indian Tribes; and

12 “(ii) the Indian Tribes find to be the
13 most beneficial and effective.”.

14 **SEC. 2113. MATERIALS REQUIREMENT FOR CERTAIN FED-**
15 **ERALLY FUNDED PROJECTS.**

16 Section 1452(a) of the Safe Drinking Water Act (42
17 U.S.C. 300j-12(a)) is amended by adding at the end the
18 following:

19 “(4) AMERICAN IRON AND STEEL PRODUCTS.—

20 “(A) IN GENERAL.—During fiscal year
21 2017, funds made available from a State loan
22 fund established pursuant to this section may
23 not be used for a project for the construction,
24 alteration, or repair of a public water system

1 unless all of the iron and steel products used in
2 the project are produced in the United States.

3 “(B) DEFINITION OF IRON AND STEEL
4 PRODUCTS.—In this paragraph, the term ‘iron
5 and steel products’ means the following prod-
6 ucts made primarily of iron or steel:

7 “(i) Lined or unlined pipes and fit-
8 tings.

9 “(ii) Manhole covers and other munic-
10 ipal castings.

11 “(iii) Hydrants.

12 “(iv) Tanks.

13 “(v) Flanges.

14 “(vi) Pipe clamps and restraints.

15 “(vii) Valves.

16 “(viii) Structural steel.

17 “(ix) Reinforced precast concrete.

18 “(x) Construction materials.

19 “(C) APPLICATION.—Subparagraph (A)
20 shall be waived in any case or category of cases
21 in which the Administrator finds that—

22 “(i) applying subparagraph (A) would
23 be inconsistent with the public interest;

24 “(ii) iron and steel products are not
25 produced in the United States in sufficient

1 and reasonably available quantities and of
2 a satisfactory quality; or

3 “(iii) inclusion of iron and steel prod-
4 ucts produced in the United States will in-
5 crease the cost of the overall project by
6 more than 25 percent.

7 “(D) WAIVER.—If the Administrator re-
8 ceives a request for a waiver under this para-
9 graph, the Administrator shall make available
10 to the public, on an informal basis, a copy of
11 the request and information available to the Ad-
12 ministrator concerning the request, and shall
13 allow for informal public input on the request
14 for at least 15 days prior to making a finding
15 based on the request. The Administrator shall
16 make the request and accompanying informa-
17 tion available by electronic means, including on
18 the official public Internet site of the Agency.

19 “(E) INTERNATIONAL AGREEMENTS.—
20 This paragraph shall be applied in a manner
21 consistent with United States obligations under
22 international agreements.

23 “(F) MANAGEMENT AND OVERSIGHT.—
24 The Administrator may retain up to 0.25 per-
25 cent of the funds appropriated for this section

1 for management and oversight of the require-
2 ments of this paragraph.

3 “(G) EFFECTIVE DATE.—This paragraph
4 does not apply with respect to a project if a
5 State agency approves the engineering plans
6 and specifications for the project, in that agen-
7 cy’s capacity to approve such plans and speci-
8 fications prior to a project requesting bids,
9 prior to the date of enactment of this para-
10 graph.”.

11 **Subtitle B—Drinking Water Dis-**
12 **aster Relief and Infrastructure**
13 **Investments**

14 **SEC. 2201. DRINKING WATER INFRASTRUCTURE.**

15 (a) DEFINITIONS.—In this section:

16 (1) ELIGIBLE STATE.—The term “eligible
17 State” means a State for which the President has
18 declared an emergency under the Robert T. Stafford
19 Disaster Relief and Emergency Assistance Act (42
20 U.S.C. 5121 et seq.) relating to the public health
21 threats associated with the presence of lead or other
22 contaminants in drinking water provided by a public
23 water system.

24 (2) ELIGIBLE SYSTEM.—The term “eligible sys-
25 tem” means a public water system that has been the

1 subject of an emergency declaration referred to in
2 paragraph (1).

3 (3) LEAD SERVICE LINE.—The term “lead serv-
4 ice line” means a pipe and its fittings, which are not
5 lead free (as defined under section 1417 of the Safe
6 Drinking Water Act (42 U.S.C. 300g–6)), that con-
7 nect the drinking water main to the building inlet.

8 (4) PUBLIC WATER SYSTEM.—The term “public
9 water system” has the meaning given such term in
10 section 1401(4) of the Safe Drinking Water Act (42
11 U.S.C. 300f(4)).

12 (b) STATE REVOLVING LOAN FUND ASSISTANCE.—

13 (1) IN GENERAL.—An eligible system shall be—

14 (A) considered to be a disadvantaged com-
15 munity under section 1452(d) of the Safe
16 Drinking Water Act (42 U.S.C. 300j–12(d));
17 and

18 (B) eligible to receive loans with additional
19 subsidization under section 1452(d)(1) of that
20 Act (42 U.S.C. 300j–12(d)(1)), including for-
21 giveness of principal under that section.

22 (2) AUTHORIZATION.—

23 (A) IN GENERAL.—Using funds provided
24 pursuant to subsection (d), an eligible State
25 may provide assistance to an eligible system

1 within the eligible State for the purpose of ad-
2 dressing lead or other contaminants in drinking
3 water, including repair and replacement of lead
4 service lines and public water system infrastruc-
5 ture.

6 (B) INCLUSION.—Assistance provided
7 under subparagraph (A) may include additional
8 subsidization under section 1452(d)(1) of the
9 Safe Drinking Water Act (42 U.S.C. 300j-
10 12(d)(1)), as described in paragraph (1)(B).

11 (C) EXCLUSION.—Assistance provided
12 under subparagraph (A) shall not include as-
13 sistance for a project that is financed (directly
14 or indirectly), in whole or in part, with proceeds
15 of any obligation issued after the date of enact-
16 ment of this Act—

17 (i) the interest of which is exempt
18 from the tax imposed under chapter 1 of
19 the Internal Revenue Code of 1986; or

20 (ii) with respect to which credit is al-
21 lowable under subpart I or J of part IV of
22 subchapter A of chapter 1 of such Code.

23 (3) INAPPLICABILITY OF LIMITATION.—Section
24 1452(d)(2) of the Safe Drinking Water Act (42
25 U.S.C. 300j-12(d)(2)) shall not apply to—

1 (A) any funds provided pursuant to sub-
2 section (d) of this section;

3 (B) any other assistance provided to an eli-
4 gible system; or

5 (C) any funds required to match the funds
6 provided under subsection (d).

7 (c) NONDUPLICATION OF WORK.—An activity carried
8 out pursuant to this section shall not duplicate the work
9 or activity of any other Federal or State department or
10 agency.

11 (d) ADDITIONAL DRINKING WATER STATE REVOLV-
12 ING FUND CAPITALIZATION GRANTS.—

13 (1) IN GENERAL.—There is authorized to be
14 appropriated to the Administrator a total of
15 \$100,000,000 to provide additional capitalization
16 grants to eligible States pursuant to section 1452 of
17 the Safe Drinking Water Act (42 U.S.C. 300j–12),
18 to be available for a period of 18 months beginning
19 on the date on which the funds are made available,
20 for the purposes described in subsection (b)(2), and
21 after the end of the 18-month period, until expended
22 for the purposes described in paragraph (3).

23 (2) SUPPLEMENTED INTENDED USE PLANS.—
24 From funds made available under paragraph (1), the
25 Administrator shall obligate to an eligible State such

1 amounts as are necessary to meet the needs identi-
2 fied in a supplemented intended use plan for the
3 purposes described in subsection (b)(2) by not later
4 than 30 days after the date on which the eligible
5 State submits to the Administrator a supplemented
6 intended use plan under section 1452(b) of the Safe
7 Drinking Water Act (42 U.S.C. 300j-12(b)) that in-
8 cludes preapplication information regarding projects
9 to be funded using the additional assistance, includ-
10 ing, with respect to each such project—

11 (A) a description of the project;

12 (B) an explanation of the means by which
13 the project will address a situation causing a
14 declared emergency in the eligible State;

15 (C) the estimated cost of the project; and

16 (D) the projected start date for construc-
17 tion of the project.

18 (3) UNOBLIGATED AMOUNTS.—Any amounts
19 made available to the Administrator under para-
20 graph (1) that are unobligated on the date that is
21 18 months after the date on which the amounts are
22 made available shall be available to provide addi-
23 tional grants to States to capitalize State loan funds
24 as provided under section 1452 of the Safe Drinking
25 Water Act (42 U.S.C. 300j-12).

1 (4) APPLICABILITY.—

2 (A) Section 1452(b)(1) of the Safe Drink-
3 ing Water Act (42 U.S.C. 300j–12(b)(1)) shall
4 not apply to a supplement to an intended use
5 plan under paragraph (2).

6 (B) Unless explicitly waived, all require-
7 ments under the Safe Drinking Water Act (42
8 U.S.C. 300f et seq.) shall apply to funding pro-
9 vided under this subsection.

10 (e) HEALTH EFFECTS EVALUATION.—

11 (1) IN GENERAL.—Pursuant to section
12 104(i)(1)(E) of the Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980
14 (42 U.S.C. 9604(i)(1)(E)), and on receipt of a re-
15 quest of an appropriate State or local health official
16 of an eligible State, the Director of the Agency for
17 Toxic Substances and Disease Registry of the Na-
18 tional Center for Environmental Health shall in co-
19 ordination with other agencies, as appropriate, con-
20 duct voluntary surveillance activities to evaluate any
21 adverse health effects on individuals exposed to lead
22 from drinking water in the affected communities.

23 (2) CONSULTATIONS.—Pursuant to section
24 104(i)(4) of the Comprehensive Environmental Re-
25 sponse, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9604(i)(4)), and on receipt of a request of an
2 appropriate State or local health official of an eligi-
3 ble State, the Director of the Agency for Toxic Sub-
4 stances and Disease Registry of the National Center
5 for Environmental Health shall provide consultations
6 regarding health issues described in paragraph (1).

7 (f) NO EFFECT ON OTHER PROJECTS.—This section
8 shall not affect the application of any provision of the
9 Water Infrastructure Finance and Innovation Act of 2014
10 (33 U.S.C. 3901 et seq.) or the Safe Drinking Water Act
11 (42 U.S.C. 300f et seq.) to any project that does not re-
12 ceive assistance pursuant to this subtitle.

13 **SEC. 2202. SENSE OF CONGRESS.**

14 It is the sense of Congress that secured loans under
15 the Water Infrastructure Finance and Innovation Act of
16 2014 (33 U.S.C. 3901 et seq.) shall be—

- 17 (1) initially appropriated at \$20,000,000; and
18 (2) used for eligible projects, including those to
19 address lead and other contaminants in drinking
20 water systems.

21 **SEC. 2203. REGISTRY FOR LEAD EXPOSURE AND ADVISORY**
22 **COMMITTEE.**

23 (a) DEFINITIONS.—In this section:

1 (1) CITY.—The term “City” means a city ex-
2 posed to lead contamination in the local drinking
3 water system.

4 (2) COMMITTEE.—The term “Committee”
5 means the Advisory Committee established under
6 subsection (c).

7 (3) SECRETARY.—The term “Secretary” means
8 the Secretary of Health and Human Services.

9 (b) LEAD EXPOSURE REGISTRY.—The Secretary
10 shall establish within the Agency for Toxic Substances and
11 Disease Registry or the Centers for Disease Control and
12 Prevention at the discretion of the Secretary, or establish
13 through a grant award or contract, a lead exposure reg-
14 istry to collect data on the lead exposure of residents of
15 a City on a voluntary basis.

16 (c) ADVISORY COMMITTEE.—

17 (1) MEMBERSHIP.—

18 (A) IN GENERAL.—The Secretary shall es-
19 tablish, within the Agency for Toxic Substances
20 and Disease Registry an Advisory Committee in
21 coordination with the Director of the Centers
22 for Disease Control and Prevention and other
23 relevant agencies as determined by the Sec-
24 retary consisting of Federal members and non-
25 Federal members, and which shall include—

- 1 (i) an epidemiologist;
- 2 (ii) a toxicologist;
- 3 (iii) a mental health professional;
- 4 (iv) a pediatrician;
- 5 (v) an early childhood education ex-
- 6 pert;
- 7 (vi) a special education expert;
- 8 (vii) a dietician; and
- 9 (viii) an environmental health expert.

10 (B) REQUIREMENTS.—Membership in the
11 Committee shall not exceed 15 members and
12 not less than $\frac{1}{2}$ of the members shall be Fed-
13 eral members.

14 (2) CHAIR.—The Secretary shall designate a
15 chair from among the Federal members appointed to
16 the Committee.

17 (3) TERMS.—Members of the Committee shall
18 serve for a term of not more than 3 years and the
19 Secretary may reappoint members for consecutive
20 terms.

21 (4) APPLICATION OF FACA.—The Committee
22 shall be subject to the Federal Advisory Committee
23 Act (5 U.S.C. App.).

24 (5) RESPONSIBILITIES.—The Committee shall,
25 at a minimum—

1 (A) review the Federal programs and serv-
2 ices available to individuals and communities
3 exposed to lead;

4 (B) review current research on lead poi-
5 soning to identify additional research needs;

6 (C) review and identify best practices, or
7 the need for best practices, regarding lead
8 screening and the prevention of lead poisoning;

9 (D) identify effective services, including
10 services relating to healthcare, education, and
11 nutrition for individuals and communities af-
12 fected by lead exposure and lead poisoning, in-
13 cluding in consultation with, as appropriate, the
14 lead exposure registry as established in sub-
15 section (b); and

16 (E) undertake any other review or activi-
17 ties that the Secretary determines to be appro-
18 priate.

19 (6) REPORT.—Annually for 5 years and there-
20 after as determined necessary by the Secretary or as
21 required by Congress, the Committee shall submit to
22 the Secretary, the Committees on Finance, Health,
23 Education, Labor, and Pensions, and Agriculture,
24 Nutrition, and Forestry of the Senate and the Com-
25 mittees on Education and the Workforce, Energy

1 and Commerce, and Agriculture of the House of
2 Representatives a report that includes—

3 (A) an evaluation of the effectiveness of
4 the Federal programs and services available to
5 individuals and communities exposed to lead;

6 (B) an evaluation of additional lead poi-
7 soning research needs;

8 (C) an assessment of any effective screen-
9 ing methods or best practices used or developed
10 to prevent or screen for lead poisoning;

11 (D) input and recommendations for im-
12 proved access to effective services relating to
13 health care, education, or nutrition for individ-
14 uals and communities impacted by lead expo-
15 sure; and

16 (E) any other recommendations for com-
17 munities affected by lead exposure, as appro-
18 priate.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated for the period of fiscal
21 years 2017 through 2021—

22 (1) \$17,500,000 to carry out subsection (b);

23 and

24 (2) \$2,500,000 to carry out subsection (c).

1 **SEC. 2204. OTHER LEAD PROGRAMS.**

2 (a) CHILDHOOD LEAD POISONING PREVENTION
3 PROGRAM.—In addition to amounts made available
4 through the Prevention and Public Health Fund estab-
5 lished under section 4002 of Public Law 111–148 (42
6 U.S.C. 300u-11) to carry out section 317A of the Public
7 Health Service Act (42 U.S.C. 247b-1), there are author-
8 ized to be appropriated for the period of fiscal years 2017
9 and 2018, \$15,000,000 for carrying out such section
10 317A.

11 (b) HEALTHY START PROGRAM.—There are author-
12 ized to be appropriated for the period of fiscal years 2017
13 and 2018 \$15,000,000 to carry out the Healthy Start Ini-
14 tiative under section 330H of the Public Health Service
15 Act (42 U.S.C. 254e-8).

16 **Subtitle C—Control of Coal**
17 **Combustion Residuals**

18 **SEC. 2301. APPROVAL OF STATE PROGRAMS FOR CONTROL**
19 **OF COAL COMBUSTION RESIDUALS.**

20 Section 4005 of the Solid Waste Disposal Act (42
21 U.S.C. 6945) is amended by adding at the end the fol-
22 lowing:

23 “(d) STATE PROGRAMS FOR CONTROL OF COAL
24 COMBUSTION RESIDUALS.—

25 “(1) APPROVAL BY ADMINISTRATOR.—

1 “(A) IN GENERAL.—Each State may sub-
2 mit to the Administrator, in such form as the
3 Administrator may establish, evidence of a per-
4 mit program or other system of prior approval
5 and conditions under State law for regulation
6 by the State of coal combustion residuals units
7 that are located in the State that, after ap-
8 proval by the Administrator, will operate in lieu
9 of regulation of coal combustion residuals units
10 in the State by—

11 “(i) application of part 257 of title
12 40, Code of Federal Regulations (or suc-
13 cessor regulations promulgated pursuant to
14 sections 1008(a)(3) and 4004(a)); or

15 “(ii) implementation by the Adminis-
16 trator of a permit program under para-
17 graph (2)(B).

18 “(B) REQUIREMENT.—Not later than 180
19 days after the date on which a State submits
20 the evidence described in subparagraph (A), the
21 Administrator, after public notice and an oppor-
22 tunity for public comment, shall approve, in
23 whole or in part, a permit program or other
24 system of prior approval and conditions sub-
25 mitted under subparagraph (A) if the Adminis-

1 trator determines that the program or other
2 system requires each coal combustion residuals
3 unit located in the State to achieve compliance
4 with—

5 “(i) the applicable criteria for coal
6 combustion residuals units under part 257
7 of title 40, Code of Federal Regulations (or
8 successor regulations promulgated pursu-
9 ant to sections 1008(a)(3) and 4004(a));
10 or

11 “(ii) such other State criteria that the
12 Administrator, after consultation with the
13 State, determines to be at least as protec-
14 tive as the criteria described in clause (i).

15 “(C) PERMIT REQUIREMENTS.—The Ad-
16 ministrators shall approve under subparagraph
17 (B)(ii) a State permit program or other system
18 of prior approval and conditions that allows a
19 State to include technical standards for indi-
20 vidual permits or conditions of approval that
21 differ from the criteria under part 257 of title
22 40, Code of Federal Regulations (or successor
23 regulations promulgated pursuant to sections
24 1008(a)(3) and 4004(a)) if, based on site-spe-
25 cific conditions, the Administrator determines

1 that the technical standards established pursu-
2 ant to a State permit program or other system
3 are at least as protective as the criteria under
4 that part.

5 “(D) PROGRAM REVIEW AND NOTIFICA-
6 TION.—

7 “(i) PROGRAM REVIEW.—The Admin-
8 istrator shall review a State permit pro-
9 gram or other system of prior approval and
10 conditions that is approved under subpara-
11 graph (B)—

12 “(I) from time to time, as the
13 Administrator determines necessary,
14 but not less frequently than once
15 every 12 years;

16 “(II) not later than 3 years after
17 the date on which the Administrator
18 revises the applicable criteria for coal
19 combustion residuals units under part
20 257 of title 40, Code of Federal Regu-
21 lations (or successor regulations pro-
22 mulgated pursuant to sections
23 1008(a)(3) and 4004(a));

24 “(III) not later than 1 year after
25 the date of a significant release (as

1 defined by the Administrator), that
2 was not authorized at the time the re-
3 lease occurred, from a coal combus-
4 tion residuals unit located in the
5 State; and

6 “(IV) on request of any other
7 State that asserts that the soil,
8 groundwater, or surface water of the
9 State is or is likely to be adversely af-
10 fected by a release or potential release
11 from a coal combustion residuals unit
12 located in the State for which the pro-
13 gram or other system was approved.

14 “(ii) NOTIFICATION AND OPPOR-
15 TUNITY FOR A PUBLIC HEARING.—The Ad-
16 ministrator shall provide to a State notice
17 of deficiencies with respect to the permit
18 program or other system of prior approval
19 and conditions of the State that is ap-
20 proved under subparagraph (B), and an
21 opportunity for a public hearing, if the Ad-
22 ministrator determines that—

23 “(I) a revision or correction to
24 the permit program or other system of
25 prior approval and conditions of the

1 State is necessary to ensure that the
2 permit program or other system of
3 prior approval and conditions con-
4 tinues to ensure that each coal com-
5 bustion residuals unit located in the
6 State achieves compliance with the
7 criteria described in clauses (i) and
8 (ii) of subparagraph (B);

9 “(II) the State has not imple-
10 mented an adequate permit program
11 or other system of prior approval and
12 conditions that requires each coal
13 combustion residuals unit located in
14 the State to achieve compliance with
15 the criteria described in subparagraph
16 (B); or

17 “(III) the State has, at any time,
18 approved or failed to revoke a permit
19 for a coal combustion residuals unit, a
20 release from which adversely affects
21 or is likely to adversely affect the soil,
22 groundwater, or surface water of an-
23 other State.

24 “(E) WITHDRAWAL.—

1 “(i) IN GENERAL.—The Administrator
2 shall withdraw approval of a State permit
3 program or other system of prior approval
4 and conditions if, after the Administrator
5 provides notice and an opportunity for a
6 public hearing to the relevant State under
7 subparagraph (D)(ii), the Administrator
8 determines that the State has not cor-
9 rected the deficiencies identified by the Ad-
10 ministrators under subparagraph (D)(ii).

11 “(ii) REINSTATEMENT OF STATE AP-
12 PROVAL.—Any withdrawal of approval
13 under clause (i) shall cease to be effective
14 on the date on which the Administrator
15 makes a determination that the State has
16 corrected the deficiencies identified by the
17 Administrator under subparagraph (D)(ii).

18 “(2) NONPARTICIPATING STATES.—

19 “(A) DEFINITION OF NONPARTICIPATING
20 STATE.—In this paragraph, the term ‘non-
21 participating State’ means a State—

22 “(i) for which the Administrator has
23 not approved a State permit program or
24 other system of prior approval and condi-
25 tions under paragraph (1)(B);

1 “(ii) the Governor of which has not
2 submitted to the Administrator for ap-
3 proval evidence to operate a State permit
4 program or other system of prior approval
5 and conditions under paragraph (1)(A);

6 “(iii) the Governor of which provides
7 notice to the Administrator that, not fewer
8 than 90 days after the date on which the
9 Governor provides the notice to the Admin-
10 istrator, the State will relinquish an ap-
11 proval under paragraph (1)(B) to operate
12 a permit program or other system of prior
13 approval and conditions; or

14 “(iv) for which the Administrator has
15 withdrawn approval for a permit program
16 or other system of prior approval and con-
17 ditions under paragraph (1)(E).

18 “(B) IMPLEMENTATION OF PERMIT PRO-
19 GRAM.—In the case of a nonparticipating State
20 and subject to the availability of appropriations
21 specifically provided in an appropriations Act to
22 carry out a program in a nonparticipating
23 State, the Administrator shall implement a per-
24 mit program to require each coal combustion
25 residuals unit located in the nonparticipating

1 State to achieve compliance with applicable cri-
2 teria established by the Administrator under
3 part 257 of title 40, Code of Federal Regula-
4 tions (or successor regulations promulgated
5 pursuant to sections 1008(a)(3) and 4004(a)).

6 “(3) APPLICABILITY OF CRITERIA.—The appli-
7 cable criteria for coal combustion residuals units
8 under part 257 of title 40, Code of Federal Regula-
9 tions (or successor regulations promulgated pursu-
10 ant to sections 1008(a)(3) and 4004(a)), shall apply
11 to each coal combustion residuals unit in a State un-
12 less—

13 “(A) a permit under a State permit pro-
14 gram or other system of prior approval and
15 conditions approved by the Administrator under
16 paragraph (1)(B) is in effect for the coal com-
17 bustion residuals unit; or

18 “(B) a permit issued by the Administrator
19 in a State in which the Administrator is imple-
20 menting a permit program under paragraph
21 (2)(B) is in effect for the coal combustion re-
22 siduals unit.

23 “(4) PROHIBITION ON OPEN DUMPING.—

24 “(A) IN GENERAL.—The Administrator
25 may use the authority provided by sections

1 3007 and 3008 to enforce the prohibition on
2 open dumping under subsection (a) with respect
3 to a coal combustion residuals unit—

4 “(i) in a nonparticipating State (as
5 defined in paragraph (2)); and

6 “(ii) located in a State that is ap-
7 proved to operate a permit program or
8 other system of prior approval and condi-
9 tions under paragraph (1)(B), in accord-
10 ance with subparagraph (B) of this para-
11 graph.

12 “(B) FEDERAL ENFORCEMENT IN AN AP-
13 PROVED STATE.—

14 “(i) IN GENERAL.—In the case of a
15 coal combustion residuals unit located in a
16 State that is approved to operate a permit
17 program or other system of prior approval
18 and conditions under paragraph (1)(B),
19 the Administrator may commence an ad-
20 ministrative or judicial enforcement action
21 under section 3008 if—

22 “(I) the State requests that the
23 Administrator provide assistance in
24 the performance of an enforcement
25 action; or

1 “(II) after consideration of any
2 other administrative or judicial en-
3 forcement action involving the coal
4 combustion residuals unit, the Admin-
5 istrator determines that an enforce-
6 ment action is likely to be necessary
7 to ensure that the coal combustion re-
8 siduals unit is operating in accordance
9 with the criteria established under the
10 permit program or other system of
11 prior approval and conditions.

12 “(ii) NOTIFICATION.—In the case of
13 an enforcement action by the Adminis-
14 trator under clause (i)(II), before issuing
15 an order or commencing a civil action, the
16 Administrator shall notify the State in
17 which the coal combustion residuals unit is
18 located.

19 “(iii) ANNUAL REPORT TO CON-
20 GRESS.—

21 “(I) IN GENERAL.—Subject to
22 subclause (II), not later than Decem-
23 ber 31, 2017, and December 31 of
24 each year thereafter, the Adminis-
25 trator shall submit to the Committee

1 on Environment and Public Works of
2 the Senate and the Committee on En-
3 ergy and Commerce of the House of
4 Representatives a report that de-
5 scribes any enforcement action com-
6 menced under clause (i), including a
7 description of the basis for the en-
8 forcement action.

9 “(II) APPLICABILITY.—Subclause
10 (I) shall not apply for any calendar
11 year during which the Administrator
12 does not commence an enforcement
13 action under clause (i).

14 “(5) INDIAN COUNTRY.—The Administrator
15 shall establish and carry out a permit program, in
16 accordance with this subsection, for coal combustion
17 residuals units in Indian country (as defined in sec-
18 tion 1151 of title 18, United States Code) to require
19 each coal combustion residuals unit located in Indian
20 country to achieve compliance with the applicable
21 criteria established by the Administrator under part
22 257 of title 40, Code of Federal Regulations (or suc-
23 cessor regulations promulgated pursuant to sections
24 1008(a)(3) and 4004(a)).

1 “(6) TREATMENT OF COAL COMBUSTION RE-
2 SIDUALS UNITS.—A coal combustion residuals unit
3 shall be considered to be a sanitary landfill for pur-
4 poses of this Act, including subsection (a), only if
5 the coal combustion residuals unit is operating in ac-
6 cordance with—

7 “(A) the requirements of a permit issued
8 by—

9 “(i) the State in accordance with a
10 program or system approved under para-
11 graph (1)(B); or

12 “(ii) the Administrator pursuant to
13 paragraph (2)(B) or paragraph (5); or

14 “(B) the applicable criteria for coal com-
15 bustion residuals units under part 257 of title
16 40, Code of Federal Regulations (or successor
17 regulations promulgated pursuant to sections
18 1008(a)(3) and 4004(a)).

19 “(7) EFFECT OF SUBSECTION.—Nothing in this
20 subsection affects any authority, regulatory deter-
21 mination, other law, or legal obligation in effect on
22 the day before the date of enactment of the Water
23 and Waste Act of 2016.”.

1 **TITLE III—NATURAL**
2 **RESOURCES**
3 **Subtitle A—Indian Dam Safety**

4 **SEC. 3101. INDIAN DAM SAFETY.**

5 (a) DEFINITIONS.—In this section:

6 (1) DAM.—

7 (A) IN GENERAL.—The term “dam” has
8 the meaning given the term in section 2 of the
9 National Dam Safety Program Act (33 U.S.C.
10 467).

11 (B) INCLUSIONS.—The term “dam” in-
12 cludes any structure, facility, equipment, or ve-
13 hicle used in connection with the operation of a
14 dam.

15 (2) FUND.—The term “Fund” means, as appli-
16 cable—

17 (A) the High-Hazard Indian Dam Safety
18 Deferred Maintenance Fund established by sub-
19 section (b)(1)(A); or

20 (B) the Low-Hazard Indian Dam Safety
21 Deferred Maintenance Fund established by sub-
22 section (b)(2)(A).

23 (3) HIGH HAZARD POTENTIAL DAM.—The term
24 “high hazard potential dam” means a dam assigned
25 to the significant or high hazard potential classifica-

1 tion under the guidelines published by the Federal
2 Emergency Management Agency entitled “Federal
3 Guidelines for Dam Safety: Hazard Potential Classi-
4 fication System for Dams” (FEMA Publication
5 Number 333).

6 (4) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given the term in section 4 of the
8 Indian Self-Determination and Education Assistance
9 Act (25 U.S.C. 5304).

10 (5) LOW HAZARD POTENTIAL DAM.—The term
11 “low hazard potential dam” means a dam assigned
12 to the low hazard potential classification under the
13 guidelines published by the Federal Emergency
14 Management Agency entitled “Federal Guidelines
15 for Dam Safety: Hazard Potential Classification
16 System for Dams” (FEMA Publication Number
17 333).

18 (6) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior, acting through the As-
20 sistant Secretary for Indian Affairs, in consultation
21 with the Secretary of the Army.

22 (b) INDIAN DAM SAFETY DEFERRED MAINTENANCE
23 FUNDS.—

24 (1) HIGH-HAZARD FUND.—

1 (A) ESTABLISHMENT.—There is estab-
2 lished in the Treasury of the United States a
3 fund, to be known as the “High-Hazard Indian
4 Dam Safety Deferred Maintenance Fund”, con-
5 sisting of—

6 (i) such amounts as are deposited in
7 the Fund under subparagraph (B); and

8 (ii) any interest earned on investment
9 of amounts in the Fund under subpara-
10 graph (D).

11 (B) DEPOSITS TO FUND.—

12 (i) IN GENERAL.—For each of fiscal
13 years 2017 through 2023, the Secretary of
14 the Treasury shall deposit in the Fund
15 \$22,750,000 from the general fund of the
16 Treasury.

17 (ii) AVAILABILITY OF AMOUNTS.—
18 Amounts deposited in the Fund under
19 clause (i) shall be used, subject to appro-
20 priation, to carry out this section.

21 (C) EXPENDITURES FROM FUND.—

22 (i) IN GENERAL.—Subject to clause
23 (ii), for each of fiscal years 2017 through
24 2023, the Secretary may, to the extent
25 provided in advance in appropriations Acts,

1 expend from the Fund, in accordance with
2 this section, not more than the sum of—

3 (I) \$22,750,000; and

4 (II) the amount of interest ac-
5 crued in the Fund.

6 (ii) ADDITIONAL EXPENDITURES.—

7 The Secretary may expend more than
8 \$22,750,000 for any fiscal year referred to
9 in clause (i) if the additional amounts are
10 available in the Fund as a result of a fail-
11 ure of the Secretary to expend all of the
12 amounts available under clause (i) in 1 or
13 more prior fiscal years.

14 (D) INVESTMENTS OF AMOUNTS.—

15 (i) IN GENERAL.—The Secretary of
16 the Treasury shall invest such portion of
17 the Fund as is not, in the judgment of the
18 Secretary, required to meet current with-
19 drawals.

20 (ii) CREDITS TO FUND.—The interest
21 on, and the proceeds from the sale or re-
22 demption of, any obligations held in the
23 Fund shall be credited to, and form a part
24 of, the Fund.

25 (E) TRANSFERS OF AMOUNTS.—

1 (i) IN GENERAL.—The amounts re-
2 quired to be transferred to the Fund under
3 this paragraph shall be transferred at least
4 monthly.

5 (ii) ADJUSTMENTS.—Proper adjust-
6 ment shall be made in amounts subse-
7 quently transferred to the extent prior esti-
8 mates are in excess of or less than the
9 amounts required to be transferred.

10 (F) TERMINATION.—On September 30,
11 2023—

12 (i) the Fund shall terminate; and

13 (ii) the unexpended and unobligated
14 balance of the Fund shall be transferred to
15 the general fund of the Treasury.

16 (2) LOW-HAZARD FUND.—

17 (A) ESTABLISHMENT.—There is estab-
18 lished in the Treasury of the United States a
19 fund, to be known as the “Low-Hazard Indian
20 Dam Safety Deferred Maintenance Fund”, con-
21 sisting of—

22 (i) such amounts as are deposited in
23 the Fund under subparagraph (B); and

1 (ii) any interest earned on investment
2 of amounts in the Fund under subpara-
3 graph (D).

4 (B) DEPOSITS TO FUND.—

5 (i) IN GENERAL.—For each of fiscal
6 years 2017 through 2023, the Secretary of
7 the Treasury shall deposit in the Fund
8 \$10,000,000 from the general fund of the
9 Treasury.

10 (ii) AVAILABILITY OF AMOUNTS.—
11 Amounts deposited in the Fund under
12 clause (i) shall be used, subject to appro-
13 priation, to carry out this section.

14 (C) EXPENDITURES FROM FUND.—

15 (i) IN GENERAL.—Subject to clause
16 (ii), for each of fiscal years 2017 through
17 2023, the Secretary may, to the extent
18 provided in advance in appropriations Acts,
19 expend from the Fund, in accordance with
20 this section, not more than the sum of—

21 (I) \$10,000,000; and

22 (II) the amount of interest ac-
23 crued in the Fund.

24 (ii) ADDITIONAL EXPENDITURES.—

25 The Secretary may expend more than

1 \$10,000,000 for any fiscal year referred to
2 in clause (i) if the additional amounts are
3 available in the Fund as a result of a fail-
4 ure of the Secretary to expend all of the
5 amounts available under clause (i) in 1 or
6 more prior fiscal years.

7 (D) INVESTMENTS OF AMOUNTS.—

8 (i) IN GENERAL.—The Secretary of
9 the Treasury shall invest such portion of
10 the Fund as is not, in the judgment of the
11 Secretary, required to meet current with-
12 drawals.

13 (ii) CREDITS TO FUND.—The interest
14 on, and the proceeds from the sale or re-
15 demption of, any obligations held in the
16 Fund shall be credited to, and form a part
17 of, the Fund.

18 (E) TRANSFERS OF AMOUNTS.—

19 (i) IN GENERAL.—The amounts re-
20 quired to be transferred to the Fund under
21 this paragraph shall be transferred at least
22 monthly.

23 (ii) ADJUSTMENTS.—Proper adjust-
24 ment shall be made in amounts subse-
25 quently transferred to the extent prior esti-

1 mates are in excess of or less than the
2 amounts required to be transferred.

3 (F) TERMINATION.—On September 30,
4 2023—

5 (i) the Fund shall terminate; and

6 (ii) the unexpended and unobligated
7 balance of the Fund shall be transferred to
8 the general fund of the Treasury.

9 (c) REPAIR, REPLACEMENT, AND MAINTENANCE OF
10 CERTAIN INDIAN DAMS.—

11 (1) PROGRAM ESTABLISHMENT.—

12 (A) IN GENERAL.—The Secretary shall es-
13 tablish a program to address the deferred main-
14 tenance needs of Indian dams that—

15 (i) create flood risks or other risks to
16 public or employee safety or natural or cul-
17 tural resources; and

18 (ii) unduly impede the management
19 and efficiency of Indian dams.

20 (B) FUNDING.—

21 (i) HIGH-HAZARD FUND.—Consistent
22 with subsection (b)(1)(B), the Secretary
23 shall use or transfer to the Bureau of In-
24 dian Affairs not less than \$22,750,000 of
25 amounts in the High-Hazard Indian Dam

1 Safety Deferred Maintenance Fund, plus
2 accrued interest, for each of fiscal years
3 2017 through 2023 to carry out mainte-
4 nance, repair, and replacement activities
5 for 1 or more of the Indian dams described
6 in paragraph (2)(A).

7 (ii) LOW-HAZARD FUND.—Consistent
8 with subsection (b)(2)(B), the Secretary
9 shall use or transfer to the Bureau of In-
10 dian Affairs not less than \$10,000,000 of
11 amounts in the Low-Hazard Indian Dam
12 Safety Deferred Maintenance Fund, plus
13 accrued interest, for each of fiscal years
14 2017 through 2023 to carry out mainte-
15 nance, repair, and replacement activities
16 for 1 or more of the Indian dams described
17 in paragraph (2)(B).

18 (C) COMPLIANCE WITH DAM SAFETY POLI-
19 CIES.—Maintenance, repair, and replacement
20 activities for Indian dams under this section
21 shall be carried out in accordance with the dam
22 safety policies of the Director of the Bureau of
23 Indian Affairs established to carry out the In-
24 dian Dams Safety Act of 1994 (25 U.S.C. 3801
25 et seq.).

1 (2) ELIGIBLE DAMS.—

2 (A) HIGH HAZARD POTENTIAL DAMS.—

3 The dams eligible for funding under paragraph
4 (1)(B)(i) are Indian high hazard potential dams
5 in the United States that—

6 (i) are included in the safety of dams
7 program established pursuant to the In-
8 dian Dams Safety Act of 1994 (25 U.S.C.
9 3801 et seq.); and

10 (iii)(I)(aa) are owned by the Federal
11 Government, as listed in the Federal inven-
12 tory required by Executive Order 13327
13 (40 U.S.C. 121 note; relating to Federal
14 real property asset management); and

15 (bb) are managed by the Bureau of
16 Indian Affairs (including dams managed
17 under contracts or compacts pursuant to
18 the Indian Self-Determination and Edu-
19 cation Assistance Act (25 U.S.C. 5301 et
20 seq.)); or

21 (II) have deferred maintenance docu-
22 mented by the Bureau of Indian Affairs.

23 (B) LOW HAZARD POTENTIAL DAMS.—The
24 dams eligible for funding under paragraph
25 (1)(B)(ii) are Indian low hazard potential dams

1 in the United States that, on the date of enact-
2 ment of this Act—

3 (i) are covered under the Indian
4 Dams Safety Act of 1994 (25 U.S.C. 3801
5 et seq.); and

6 (ii)(I)(aa) are owned by the Federal
7 Government, as listed in the Federal inven-
8 tory required by Executive Order 13327
9 (40 U.S.C. 121 note; relating to Federal
10 real property asset management); and

11 (bb) are managed by the Bureau of
12 Indian Affairs (including dams managed
13 under contracts or compacts pursuant to
14 the Indian Self-Determination and Edu-
15 cation Assistance Act (25 U.S.C. 5301 et
16 seq.)); or

17 (II) have deferred maintenance docu-
18 mented by the Bureau of Indian Affairs.

19 (3) REQUIREMENTS AND CONDITIONS.—Not
20 later than 120 days after the date of enactment of
21 this Act and as a precondition to amounts being ex-
22 pended from the Fund to carry out this subsection,
23 the Secretary, in consultation with representatives of
24 affected Indian tribes, shall develop and submit to
25 Congress—

1 (A) programmatic goals to carry out this
2 subsection that—

3 (i) would enable the completion of re-
4 pairing, replacing, improving, or per-
5 forming maintenance on Indian dams as
6 expeditiously as practicable, subject to the
7 dam safety policies of the Director of the
8 Bureau of Indian Affairs established to
9 carry out the Indian Dams Safety Act of
10 1994 (25 U.S.C. 3801 et seq.);

11 (ii) facilitate or improve the ability of
12 the Bureau of Indian Affairs to carry out
13 the mission of the Bureau of Indian Af-
14 fairs in operating an Indian dam; and

15 (iii) ensure that the results of govern-
16 ment-to-government consultation required
17 under paragraph (4) be addressed; and

18 (B) funding prioritization criteria to serve
19 as a methodology for distributing funds under
20 this subsection that take into account—

21 (i) the extent to which deferred main-
22 tenance of Indian dams poses a threat
23 to—

24 (I) public or employee safety or
25 health;

1 (II) natural or cultural resources;

2 or

3 (III) the ability of the Bureau of
4 Indian Affairs to carry out the mis-
5 sion of the Bureau of Indian Affairs
6 in operating an Indian dam;

7 (ii) the extent to which repairing, re-
8 placing, improving, or performing mainte-
9 nance on an Indian dam will—

10 (I) improve public or employee
11 safety, health, or accessibility;

12 (II) assist in compliance with
13 codes, standards, laws, or other re-
14 quirements;

15 (III) address unmet needs; or

16 (IV) assist in protecting natural
17 or cultural resources;

18 (iii) the methodology of the rehabilita-
19 tion priority index of the Secretary, as in
20 effect on the date of enactment of this Act;

21 (iv) the potential economic benefits of
22 the expenditures on job creation and gen-
23 eral economic development in the affected
24 tribal communities;

1 (v) the ability of an Indian dam to ad-
2 dress tribal, regional, and watershed level
3 flood prevention needs;

4 (vi) the need to comply with the dam
5 safety policies of the Director of the Bu-
6 reau of Indian Affairs established to carry
7 out the Indian Dams Safety Act of 1994
8 (25 U.S.C. 3801 et seq.);

9 (vii) the ability of the water storage
10 capacity of an Indian dam to be increased
11 to prevent flooding in downstream tribal
12 and nontribal communities; and

13 (viii) such other factors as the Sec-
14 retary determines to be appropriate to
15 prioritize the use of available funds that
16 are, to the fullest extent practicable, con-
17 sistent with tribal and user recommenda-
18 tions received pursuant to the consultation
19 and input process under paragraph (4).

20 (4) TRIBAL CONSULTATION AND USER
21 INPUT.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), before expending funds on
24 an Indian dam pursuant to paragraph (1) and

1 not later than 60 days after the date of enact-
2 ment of this Act, the Secretary shall—

3 (i) consult with the Director of the
4 Bureau of Indian Affairs on the expendi-
5 ture of funds;

6 (ii) ensure that the Director of the
7 Bureau of Indian Affairs advises the In-
8 dian tribe that has jurisdiction over the
9 land on which a dam eligible to receive
10 funding under paragraph (2) is located on
11 the expenditure of funds; and

12 (iii) solicit and consider the input,
13 comments, and recommendations of the
14 landowners served by the Indian dam.

15 (B) EMERGENCIES.—If the Secretary de-
16 termines that an emergency circumstance exists
17 with respect to an Indian dam, subparagraph
18 (A) shall not apply with respect to that Indian
19 dam.

20 (5) ALLOCATION AMONG DAMS.—

21 (A) IN GENERAL.—Subject to subpara-
22 graph (B), to the maximum extent practicable,
23 the Secretary shall ensure that, for each of fis-
24 cal years 2017 through 2023, each Indian dam
25 eligible for funding under paragraph (2) that

1 has critical maintenance needs receives part of
2 the funding under paragraph (1) to address
3 critical maintenance needs.

4 (B) PRIORITY.—In allocating amounts
5 under paragraph (1)(B), in addition to consid-
6 ering the funding priorities described in para-
7 graph (3), the Secretary shall give priority to
8 Indian dams eligible for funding under para-
9 graph (2) that serve—

10 (i) more than 1 Indian tribe within an
11 Indian reservation; or

12 (ii) highly populated Indian commu-
13 nities, as determined by the Secretary.

14 (C) CAP ON FUNDING.—

15 (i) IN GENERAL.—Subject to clause
16 (ii), in allocating amounts under paragraph
17 (1)(B), the Secretary shall allocate not
18 more than \$10,000,000 to any individual
19 dam described in paragraph (2) during any
20 consecutive 3-year period.

21 (ii) EXCEPTION.—Notwithstanding
22 the cap described in clause (i), if the full
23 amount under paragraph (1)(B) cannot be
24 fully allocated to eligible Indian dams be-
25 cause the costs of the remaining activities

1 authorized in paragraph (1)(B) of an In-
2 dian dam would exceed the cap described
3 in clause (i), the Secretary may allocate
4 the remaining funds to eligible Indian
5 dams in accordance with this subsection.

6 (D) BASIS OF FUNDING.—Any amounts
7 made available under this paragraph shall be
8 nonreimbursable.

9 (E) APPLICABILITY OF ISDEAA.—The In-
10 dian Self-Determination and Education Assist-
11 ance Act (25 U.S.C. 5301 et seq.) shall apply
12 to activities carried out under this paragraph.

13 (d) TRIBAL SAFETY OF DAMS COMMITTEE.—

14 (1) ESTABLISHMENT OF COMMITTEE.—

15 (A) ESTABLISHMENT.—The Secretary of
16 the Interior shall establish within the Bureau of
17 Indian Affairs the Tribal Safety of Dams Com-
18 mittee (referred to in this paragraph as the
19 “Committee”).

20 (B) MEMBERSHIP.—

21 (i) COMPOSITION.—The Committee
22 shall be composed of 15 members, of
23 whom—

24 (I) 11 shall be appointed by the
25 Secretary of the Interior from among

1 individuals who, to the maximum ex-
2 tent practicable, have knowledge and
3 expertise in dam safety issues and
4 flood prevention and mitigation, of
5 whom not less than 1 shall be a mem-
6 ber of an Indian tribe in each of the
7 Bureau of Indian Affairs regions of—

- 8 (aa) the Northwest Region;
9 (bb) the Pacific Region;
10 (cc) the Western Region;
11 (dd) the Navajo Region;
12 (ee) the Southwest Region;
13 (ff) the Rocky Mountain Re-
14 gion;
15 (gg) the Great Plans Re-
16 gion; and
17 (hh) the Midwest Region;

18 (II) 2 shall be appointed by the
19 Secretary of the Interior from among
20 employees of the Bureau of Indian Af-
21 fairs who have knowledge and exper-
22 tise in dam safety issues and flood
23 prevention and mitigation;

24 (III) 1 shall be appointed by the
25 Secretary of the Interior from among

1 employees of the Bureau of Reclama-
2 tion who have knowledge and exper-
3 tise in dam safety issues and flood
4 prevention and mitigation; and

5 (IV) 1 shall be appointed by the
6 Secretary of the Army from among
7 employees of the Corps of Engineers
8 who have knowledge and expertise in
9 dam safety issues and flood preven-
10 tion and mitigation.

11 (ii) NONVOTING MEMBERS.—The
12 members of the Committee appointed
13 under subclauses (II) and (III) of clause
14 (i) shall be nonvoting members.

15 (iii) DATE.—The appointments of the
16 members of the Committee shall be made
17 as soon as practicable after the date of en-
18 actment of this Act.

19 (C) PERIOD OF APPOINTMENT.—Members
20 shall be appointed for the life of the Committee.

21 (D) VACANCIES.—Any vacancy in the
22 Committee shall not affect the powers of the
23 Committee, but shall be filled in the same man-
24 ner as the original appointment.

1 (E) INITIAL MEETING.—Not later than 30
2 days after the date on which all members of the
3 Committee have been appointed, the Committee
4 shall hold the first meeting.

5 (F) MEETINGS.—The Committee shall
6 meet at the call of the Chairperson.

7 (G) QUORUM.—A majority of the members
8 of the Committee shall constitute a quorum, but
9 a lesser number of members may hold hearings.

10 (H) CHAIRPERSON AND VICE CHAIR-
11 PERSON.—The Committee shall select a Chair-
12 person and Vice Chairperson from among the
13 members.

14 (2) DUTIES OF THE COMMITTEE.—

15 (A) STUDY.—The Committee shall conduct
16 a thorough study of all matters relating to the
17 modernization of the Indian Dams Safety Act
18 of 1994 (25 U.S.C. 3801 et seq.).

19 (B) RECOMMENDATIONS.—The Committee
20 shall develop recommendations for legislation to
21 improve the Indian Dams Safety Act of 1994
22 (25 U.S.C. 3801 et seq.).

23 (C) REPORT.—Not later than 1 year after
24 the date on which the Committee holds the first
25 meeting, the Committee shall submit a report

1 containing a detailed statement of the findings
2 and conclusions of the Committee, together
3 with recommendations for legislation that the
4 Committee considers appropriate, to—

5 (i) the Committee on Indian Affairs of
6 the Senate; and

7 (ii) the Committee on Natural Re-
8 sources of the House of Representatives.

9 (3) POWERS OF THE COMMITTEE.—

10 (A) HEARINGS.—The Committee may hold
11 such hearings, sit and act at such times and
12 places, take such testimony, and receive such
13 evidence as the Committee considers appro-
14 priate to carry out this paragraph.

15 (B) INFORMATION FROM FEDERAL AGEN-
16 CIES.—

17 (i) IN GENERAL.—The Committee
18 may secure directly from any Federal de-
19 partment or agency such information as
20 the Committee considers necessary to carry
21 out this paragraph.

22 (ii) REQUEST.—On request of the
23 Chairperson of the Committee, the head of
24 any Federal department or agency shall

1 furnish information described in clause (i)
2 to the Committee.

3 (C) POSTAL SERVICES.—The Committee
4 may use the United States mails in the same
5 manner and under the same conditions as other
6 departments and agencies of the Federal Gov-
7 ernment.

8 (D) GIFTS.—The Committee may accept,
9 use, and dispose of gifts or donations of serv-
10 ices or property.

11 (4) COMMITTEE PERSONNEL MATTERS.—

12 (A) COMPENSATION OF MEMBERS.—

13 (i) NON-FEDERAL MEMBERS.—Each
14 member of the Committee who is not an
15 officer or employee of the Federal Govern-
16 ment shall be compensated at a rate equal
17 to the daily equivalent of the annual rate
18 of basic pay prescribed for level IV of the
19 Executive Schedule under section 5315 of
20 title 5, United States Code, for each day
21 (including travel time) during which the
22 member is engaged in the performance of
23 the duties of the Committee.

24 (ii) FEDERAL MEMBERS.—Each mem-
25 ber of the Committee who is an officer or

1 employee of the Federal Government shall
2 serve without compensation in addition to
3 that received for services as an officer or
4 employee of the Federal Government.

5 (B) TRAVEL EXPENSES.—The members of
6 the Committee shall be allowed travel expenses,
7 including per diem in lieu of subsistence, at
8 rates authorized for employees of agencies
9 under subchapter I of chapter 57 of title 5,
10 United States Code, while away from their
11 homes or regular places of business in the per-
12 formance of services for the Committee.

13 (C) STAFF.—

14 (i) IN GENERAL.—

15 (I) APPOINTMENT.—The Chair-
16 person of the Committee may, without
17 regard to the civil service laws and
18 regulations, appoint and terminate an
19 executive director and such other ad-
20 ditional personnel as may be nec-
21 essary to enable the Committee to
22 perform the duties of the Committee.

23 (II) CONFIRMATION.—The em-
24 ployment of an executive director shall

1 be subject to confirmation by the
2 Committee.

3 (ii) COMPENSATION.—The Chair-
4 person of the Committee may fix the com-
5 pensation of the executive director and
6 other personnel without regard to chapter
7 51 and subchapter III of chapter 53 of
8 title 5, United States Code, relating to
9 classification of positions and General
10 Schedule pay rates, except that the rate of
11 pay for the executive director and other
12 personnel may not exceed the rate payable
13 for level V of the Executive Schedule under
14 section 5316 of that title.

15 (D) DETAIL OF GOVERNMENT EMPLOY-
16 EES.—Any Federal Government employee may
17 be detailed to the Committee without reim-
18 bursement, and such detail shall be without
19 interruption or loss of civil service status or
20 privilege.

21 (E) PROCUREMENT OF TEMPORARY AND
22 INTERMITTENT SERVICES.—The Chairperson of
23 the Committee may procure temporary and
24 intermittent services under section 3109(b) of
25 title 5, United States Code, at rates for individ-

1 uals that do not exceed the daily equivalent of
2 the annual rate of basic pay prescribed for level
3 V of the Executive Schedule under section 5316
4 of that title.

5 (5) TERMINATION OF THE COMMITTEE.—The
6 Committee shall terminate 90 days after the date on
7 which the Committee submits the report under para-
8 graph (2)(C).

9 (6) FUNDING.—Of the amounts authorized to
10 be expended from either Fund, \$1,000,000 shall be
11 made available from either Fund during fiscal year
12 2017 to carry out this subsection, to remain avail-
13 able until expended.

14 (e) INDIAN DAM SURVEYS.—

15 (1) TRIBAL REPORTS.—The Secretary shall re-
16 quest that, not less frequently than once every 180
17 days, each Indian tribe submit to the Secretary a re-
18 port providing an inventory of the dams located on
19 the land of the Indian tribe.

20 (2) BIA REPORTS.—Not less frequently than
21 once each year, the Secretary shall submit to Con-
22 gress a report describing the condition of each dam
23 under the partial or total jurisdiction of the Sec-
24 retary.

25 (f) FLOOD PLAIN MANAGEMENT PILOT PROGRAM.—

1 (1) ESTABLISHMENT.—The Secretary shall es-
2 tablish, within the Bureau of Indian Affairs, a flood
3 plain management pilot program (referred to in this
4 subsection as the “program”) to provide, at the re-
5 quest of an Indian tribe, guidance to the Indian
6 tribe relating to best practices for the mitigation and
7 prevention of floods, including consultation with the
8 Indian tribe on—

9 (A) flood plain mapping; or

10 (B) new construction planning.

11 (2) TERMINATION.—The program shall termi-
12 nate on the date that is 4 years after the date of en-
13 actment of this Act.

14 (3) FUNDING.—Of the amounts authorized to
15 be expended from either Fund, \$250,000 shall be
16 made available from either Fund during each of fis-
17 cal years 2017, 2018, and 2019 to carry out this
18 subsection, to remain available until expended.

19 **Subtitle B—Irrigation Rehabilita-**
20 **tion and Renovation for Indian**
21 **Tribal Governments and Their**
22 **Economies**

23 **SEC. 3201. DEFINITIONS.**

24 In this subtitle:

1 (1) DEFERRED MAINTENANCE.—The term “de-
2 ferred maintenance” means any maintenance activity
3 that was delayed to a future date, in lieu of being
4 carried out at the time at which the activity was
5 scheduled to be, or otherwise should have been, car-
6 ried out.

7 (2) FUND.—The term “Fund” means the In-
8 dian Irrigation Fund established by section 3211.

9 (3) INDIAN TRIBE.—The term “Indian tribe”
10 has the meaning given the term in section 4 of the
11 Indian Self-Determination and Education Assistance
12 Act (25 U.S.C. 5304).

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

15 **PART I—INDIAN IRRIGATION FUND**

16 **SEC. 3211. ESTABLISHMENT.**

17 There is established in the Treasury of the United
18 States a fund, to be known as the “Indian Irrigation
19 Fund”, consisting of—

20 (1) such amounts as are deposited in the Fund
21 under section 3212; and

22 (2) any interest earned on investment of
23 amounts in the Fund under section 3214.

1 **SEC. 3212. DEPOSITS TO FUND.**

2 (a) IN GENERAL.—For each of fiscal years 2017
3 through 2021, the Secretary of the Treasury shall deposit
4 in the Fund \$35,000,000 from the general fund of the
5 Treasury.

6 (b) AVAILABILITY OF AMOUNTS.—Amounts depos-
7 ited in the Fund under subsection (a) shall be used, sub-
8 ject to appropriation, to carry out this subtitle.

9 **SEC. 3213. EXPENDITURES FROM FUND.**

10 (a) IN GENERAL.—Subject to subsection (b), for each
11 of fiscal years 2017 through 2021, the Secretary may, to
12 the extent provided in advance in appropriations Acts, ex-
13 pend from the Fund, in accordance with this subtitle, not
14 more than the sum of—

15 (1) \$35,000,000; and

16 (2) the amount of interest accrued in the Fund.

17 (b) ADDITIONAL EXPENDITURES.—The Secretary
18 may expend more than \$35,000,000 for any fiscal year
19 referred to in subsection (a) if the additional amounts are
20 available in the Fund as a result of a failure of the Sec-
21 retary to expend all of the amounts available under sub-
22 section (a) in 1 or more prior fiscal years.

23 **SEC. 3214. INVESTMENTS OF AMOUNTS.**

24 (a) IN GENERAL.—The Secretary of the Treasury
25 shall invest such portion of the Fund as is not, in the judg-

1 ment of the Secretary, required to meet current with-
2 draws.

3 (b) CREDITS TO FUND.—The interest on, and the
4 proceeds from the sale or redemption of, any obligations
5 held in the Fund shall be credited to, and form a part
6 of, the Fund.

7 **SEC. 3215. TRANSFERS OF AMOUNTS.**

8 (a) IN GENERAL.—The amounts required to be
9 transferred to the Fund under this part shall be trans-
10 ferred at least monthly from the general fund of the
11 Treasury to the Fund on the basis of estimates made by
12 the Secretary of the Treasury.

13 (b) ADJUSTMENTS.—Proper adjustment shall be
14 made in amounts subsequently transferred to the extent
15 prior estimates are in excess of or less than the amounts
16 required to be transferred.

17 **SEC. 3216. TERMINATION.**

18 On September 30, 2021—

19 (1) the Fund shall terminate; and

20 (2) the unexpended and unobligated balance of
21 the Fund shall be transferred to the general fund of
22 the Treasury.

1 **PART II—REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS**

2 **SEC. 3221. REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS.**

3 (a) IN GENERAL.—The Secretary shall establish a
4 program to address the deferred maintenance needs and
5 water storage needs of Indian irrigation projects that—

6 (1) create risks to public or employee safety or
7 natural or cultural resources; and

8 (2) unduly impede the management and efficiency of the Indian irrigation program.

9 (b) FUNDING.—Consistent with section 3213, the
10 Secretary shall use or transfer to the Bureau of Indian
11 Affairs not less than \$35,000,000 of amounts in the Fund,
12 plus accrued interest, for each of fiscal years 2017
13 through 2021 to carry out maintenance, repair, and re-
14 placement activities for 1 or more of the Indian irrigation
15 projects described in section 3222 (including any struc-
16 tures, facilities, equipment, personnel, or vehicles used in
17 connection with the operation of those projects), subject
18 to the condition that the funds expended under this part
19 shall not be—

20 (1) subject to reimbursement by the owners of
21 the land served by the Indian irrigation projects; or

1 (2) assessed as debts or liens against the land
2 served by the Indian irrigation projects.

3 **SEC. 3222. ELIGIBLE PROJECTS.**

4 The projects eligible for funding under section
5 3221(b) are the Indian irrigation projects in the western
6 United States that, on the date of enactment of this Act—

7 (1) are owned by the Federal Government, as
8 listed in the Federal inventory required by Executive
9 Order 13327 (40 U.S.C. 121 note; relating to Fed-
10 eral real property asset management);

11 (2) are managed and operated by the Bureau of
12 Indian Affairs (including projects managed, oper-
13 ated, or maintained under contracts or compacts
14 pursuant to the Indian Self-Determination and Edu-
15 cation Assistance Act (25 U.S.C. 5301 et seq.); and

16 (3) have deferred maintenance documented by
17 the Bureau of Indian Affairs.

18 **SEC. 3223. REQUIREMENTS AND CONDITIONS.**

19 Not later than 120 days after the date of enactment
20 of this Act and as a precondition to amounts being ex-
21 pended from the Fund to carry out this part, the Sec-
22 retary, in consultation with the Assistant Secretary for In-
23 dian Affairs and representatives of affected Indian tribes,
24 shall develop and submit to Congress—

1 (1) programmatic goals to carry out this part
2 that—

3 (A) would enable the completion of repair-
4 ing, replacing, modernizing, or performing
5 maintenance on projects as expeditiously as
6 practicable;

7 (B) facilitate or improve the ability of the
8 Bureau of Indian Affairs to carry out the mis-
9 sion of the Bureau of Indian Affairs in oper-
10 ating a project;

11 (C) ensure that the results of government-
12 to-government consultation required under sec-
13 tion 3225 be addressed; and

14 (D) would facilitate the construction of
15 new water storage using non-Federal contribu-
16 tions to address tribal, regional, and watershed-
17 level supply needs; and

18 (2) funding prioritization criteria to serve as a
19 methodology for distributing funds under this part,
20 that take into account—

21 (A) the extent to which deferred mainte-
22 nance of qualifying irrigation projects poses a
23 threat to public or employee safety or health;

1 (B) the extent to which deferred mainte-
2 nance poses a threat to natural or cultural re-
3 sources;

4 (C) the extent to which deferred mainte-
5 nance poses a threat to the ability of the Bu-
6 reau of Indian Affairs to carry out the mission
7 of the Bureau of Indian Affairs in operating the
8 project;

9 (D) the extent to which repairing, replac-
10 ing, modernizing, or performing maintenance on
11 a facility or structure will—

12 (i) improve public or employee safety,
13 health, or accessibility;

14 (ii) assist in compliance with codes,
15 standards, laws, or other requirements;

16 (iii) address unmet needs; and

17 (iv) assist in protecting natural or cul-
18 tural resources;

19 (E) the methodology of the rehabilitation
20 priority index of the Secretary, as in effect on
21 the date of enactment of this Act;

22 (F) the potential economic benefits of the
23 expenditures on job creation and general eco-
24 nomic development in the affected tribal com-
25 munities;

1 (G) the ability of the qualifying project to
2 address tribal, regional, and watershed level
3 water supply needs; and

4 (H) such other factors as the Secretary de-
5 termines to be appropriate to prioritize the use
6 of available funds that are, to the fullest extent
7 practicable, consistent with tribal and user rec-
8 ommendations received pursuant to the con-
9 sultation and input process under section 3225.

10 **SEC. 3224. STUDY OF INDIAN IRRIGATION PROGRAM AND**
11 **PROJECT MANAGEMENT.**

12 (a) TRIBAL CONSULTATION AND USER INPUT.—Be-
13 fore beginning to conduct the study required under sub-
14 section (b), the Secretary shall—

15 (1) consult with the Indian tribes that have ju-
16 risdiction over the land on which an irrigation
17 project eligible to receive funding under section 3222
18 is located; and

19 (2) solicit and consider the input, comments,
20 and recommendations of—

21 (A) the landowners served by the irrigation
22 project; and

23 (B) irrigators from adjacent irrigation dis-
24 tricts.

1 (b) STUDY.—Not later than 2 years after the date
2 of enactment of this Act, the Secretary, acting through
3 the Assistant Secretary for Indian Affairs, shall complete
4 a study that evaluates options for improving pro-
5 grammatic and project management and performance of
6 irrigation projects managed and operated in whole or in
7 part by the Bureau of Indian Affairs.

8 (c) REPORT.—On completion of the study under sub-
9 section (b), the Secretary, acting through the Assistant
10 Secretary for Indian Affairs, shall submit to the Com-
11 mittee on Indian Affairs of the Senate and the Committee
12 on Natural Resources of the House of Representatives a
13 report that—

14 (1) describes the results of the study;

15 (2) determines the cost to financially sustain
16 each project;

17 (3) recommends whether management of each
18 project could be improved by transferring manage-
19 ment responsibilities to other Federal agencies or
20 water user groups; and

21 (4) includes recommendations for improving
22 programmatic and project management and per-
23 formance—

24 (A) in each qualifying project area; and

25 (B) for the program as a whole.

1 (d) STATUS REPORT.—Not later than 2 years after
2 the date of enactment of this Act, and not less frequently
3 than every 2 years thereafter (until the end of fiscal year
4 2021), the Secretary, acting through the Assistant Sec-
5 retary for Indian Affairs, shall submit to the Committee
6 on Indian Affairs of the Senate and the Committee on
7 Natural Resources of the House of Representatives a re-
8 port that includes a description of—

9 (1) the progress made toward addressing the
10 deferred maintenance needs of the Indian irrigation
11 projects described in section 3222, including a list of
12 projects funded during the fiscal period covered by
13 the report;

14 (2) the outstanding needs of those projects that
15 have been provided funding to address the deferred
16 maintenance needs pursuant to this part;

17 (3) the remaining needs of any of those
18 projects;

19 (4) how the goals established pursuant to sec-
20 tion 3223 have been met, including—

21 (A) an identification and assessment of
22 any deficiencies or shortfalls in meeting those
23 goals; and

24 (B) a plan to address the deficiencies or
25 shortfalls in meeting those goals; and

1 (5) any other subject matters the Secretary, to
2 the maximum extent practicable consistent with trib-
3 al and user recommendations received pursuant to
4 the consultation and input process under section
5 3225, determines to be appropriate.

6 **SEC. 3225. TRIBAL CONSULTATION AND USER INPUT.**

7 Before expending funds on an Indian irrigation
8 project pursuant to section 3221 and not later than 120
9 days after the date of enactment of this Act, the Secretary
10 shall—

11 (1) consult with the Indian tribe that has juris-
12 diction over the land on which an irrigation project
13 eligible to receive funding under section 3222 is lo-
14 cated; and

15 (2) solicit and consider the input, comments,
16 and recommendations of—

17 (A) the landowners served by the irrigation
18 project; and

19 (B) irrigators from adjacent irrigation dis-
20 tricts.

21 **SEC. 3226. ALLOCATION AMONG PROJECTS.**

22 (a) IN GENERAL.—Subject to subsection (b), to the
23 maximum extent practicable, the Secretary shall ensure
24 that, for each of fiscal years 2017 through 2021, each In-
25 dian irrigation project eligible for funding under section

1 3222 that has critical maintenance needs receives part of
2 the funding under section 3221 to address critical mainte-
3 nance needs.

4 (b) PRIORITY.—In allocating amounts under section
5 3221(b), in addition to considering the funding priorities
6 described in section 3223, the Secretary shall give priority
7 to eligible Indian irrigation projects serving more than 1
8 Indian tribe within an Indian reservation and to projects
9 for which funding has not been made available during the
10 10-year period ending on the day before the date of enact-
11 ment of this Act under any other Act of Congress that
12 expressly identifies the Indian irrigation project or the In-
13 dian reservation of the project to address the deferred
14 maintenance, repair, or replacement needs of the Indian
15 irrigation project.

16 (c) CAP ON FUNDING.—

17 (1) IN GENERAL.—Subject to paragraph (2), in
18 allocating amounts under section 3221(b), the Sec-
19 retary shall allocate not more than \$15,000,000 to
20 any individual Indian irrigation project described in
21 section 3222 during any consecutive 3-year period.

22 (2) EXCEPTION.—Notwithstanding the cap de-
23 scribed in paragraph (1), if the full amount under
24 section 3221(b) cannot be fully allocated to eligible
25 Indian irrigation projects because the costs of the

1 remaining activities authorized in section 3221(b) of
2 an irrigation project would exceed the cap described
3 in paragraph (1), the Secretary may allocate the re-
4 maining funds to eligible Indian irrigation projects
5 in accordance with this part.

6 (d) BASIS OF FUNDING.—Any amounts made avail-
7 able under this section shall be nonreimbursable.

8 (e) APPLICABILITY OF ISDEAA.—The Indian Self-De-
9 termination and Education Assistance Act (25 U.S.C.
10 5301 et seq.) shall apply to activities carried out under
11 this section.

12 **Subtitle C—Weber Basin**

13 **Prepayments**

14 **SEC. 3301. PREPAYMENT OF CERTAIN REPAYMENT OBLIGA-**

15 **TIONS UNDER CONTRACTS BETWEEN THE**

16 **UNITED STATES AND THE WEBER BASIN**

17 **WATER CONSERVANCY DISTRICT.**

18 The Secretary of the Interior shall allow for prepay-
19 ment of repayment obligations under Repayment Contract
20 No. 14–06–400–33 between the United States and the
21 Weber Basin Water Conservancy District, dated Decem-
22 ber 12, 1952, and supplemented and amended on June
23 30, 1961, on April 15, 1966, on September 20, 1968, and
24 on May 9, 1985, including future amendments and all re-
25 lated applicable contracts thereto, providing for repayment

1 of Weber Basin Project construction costs allocated to irri-
2 gation and municipal and industrial purposes for which
3 repayment is provided pursuant to such contracts under
4 terms and conditions similar to those used in imple-
5 menting the prepayment provisions in section 210 of the
6 Central Utah Project Completion Act (Public Law 102–
7 575), as amended, for prepayment of Central Utah
8 Project, Bonneville Unit repayment obligations. The pre-
9 payment—

10 (1) shall result in the United States recovering
11 the net present value of all repayment streams that
12 would have been payable to the United States if this
13 Act was not in effect;

14 (2) may be provided in several installments;

15 (3) may not be adjusted on the basis of the
16 type of prepayment financing used by the District;
17 and

18 (4) shall be made such that total repayment is
19 made not later than September 30, 2026.

20 **Subtitle D—Pechanga Water Rights** 21 **Settlement**

22 **SEC. 3401. SHORT TITLE.**

23 This subtitle may be cited as the “Pechanga Band
24 of Luiseño Mission Indians Water Rights Settlement Act”.

1 **SEC. 3402. PURPOSES.**

2 The purposes of this subtitle are—

3 (1) to achieve a fair, equitable, and final settle-
4 ment of claims to water rights and certain claims for
5 injuries to water rights in the Santa Margarita
6 River Watershed for—

7 (A) the Band; and

8 (B) the United States, acting in its capac-
9 ity as trustee for the Band and Allottees;

10 (2) to achieve a fair, equitable, and final settle-
11 ment of certain claims by the Band and Allottees
12 against the United States;

13 (3) to authorize, ratify, and confirm the
14 Pechanga Settlement Agreement to be entered into
15 by the Band, RCWD, and the United States;

16 (4) to authorize and direct the Secretary—

17 (A) to execute the Pechanga Settlement
18 Agreement; and

19 (B) to take any other action necessary to
20 carry out the Pechanga Settlement Agreement
21 in accordance with this subtitle; and

22 (5) to authorize the appropriation of amounts
23 necessary for the implementation of the Pechanga
24 Settlement Agreement and this subtitle.

25 **SEC. 3403. DEFINITIONS.**

26 In this subtitle:

1 (1) ADJUDICATION COURT.—The term “Adju-
2 dication Court” means the United States District
3 Court for the Southern District of California, which
4 exercises continuing jurisdiction over the Adjudica-
5 tion Proceeding.

6 (2) ADJUDICATION PROCEEDING.—The term
7 “Adjudication Proceeding” means litigation initiated
8 by the United States regarding relative water rights
9 in the Santa Margarita River Watershed in United
10 States v. Fallbrook Public Utility District et al., Civ.
11 No. 3:51–cv–01247 (S.D.C.A.), including any litiga-
12 tion initiated to interpret or enforce the relative
13 water rights in the Santa Margarita River Water-
14 shed pursuant to the continuing jurisdiction of the
15 Adjudication Court over the Fallbrook Decree.

16 (3) ALLOTTEE.—The term “Allottee” means an
17 individual who holds a beneficial real property inter-
18 est in an Indian allotment that is—

19 (A) located within the Reservation; and

20 (B) held in trust by the United States.

21 (4) BAND.—The term “Band” means Pechanga
22 Band of Luiseño Mission Indians, a federally recog-
23 nized sovereign Indian tribe that functions as a cus-
24 tom and tradition Indian tribe, acting on behalf of

1 itself and its members, but not acting on behalf of
2 members in their capacities as Allottees.

3 (5) CLAIMS.—The term “claims” means rights,
4 claims, demands, actions, compensation, or causes of
5 action, whether known or unknown.

6 (6) EMWD.—The term “EMWD” means East-
7 ern Municipal Water District, a municipal water dis-
8 trict organized and existing in accordance with the
9 Municipal Water District Law of 1911, Division 20
10 of the Water Code of the State of California, as
11 amended.

12 (7) EMWD CONNECTION FEE.—The term
13 “EMWD Connection Fee” has the meaning set forth
14 in the Extension of Service Area Agreement.

15 (8) ENFORCEABILITY DATE.—The term “en-
16 forceability date” means the date on which the Sec-
17 retary publishes in the Federal Register the state-
18 ment of findings described in section 3407(e).

19 (9) ESAA CAPACITY AGREEMENT.—The term
20 “ESAA Capacity Agreement” means the “ESAA
21 Capacity Agreement”, among the Band, RCWD, and
22 the United States.

23 (10) ESAA WATER.—The term “ESAA Water”
24 means imported potable water that the Band re-
25 ceives from EMWD and MWD pursuant to the Ex-

1 tension of Service Area Agreement and delivered by
2 RCWD pursuant to the ESAA Water Delivery
3 Agreement.

4 (11) ESAA WATER DELIVERY AGREEMENT.—
5 The term “ESAA Water Delivery Agreement”
6 means the agreement among EMWD, RCWD, and
7 the Band, establishing the terms and conditions of
8 water service to the Band.

9 (12) EXTENSION OF SERVICE AREA AGREE-
10 MENT.—The term “Extension of Service Area
11 Agreement” means the “Extension of Service Area
12 Agreement”, among the Band, EMWD, and MWD,
13 for the provision of water service by EMWD to a
14 designated portion of the Reservation using water
15 supplied by MWD.

16 (13) FALLBROOK DECREE.—

17 (A) IN GENERAL.—The term “Fallbrook
18 Decree” means the “Modified Final Judgment
19 And Decree”, entered in the Adjudication Pro-
20 ceeding on April 6, 1966.

21 (B) INCLUSIONS.—The term “Fallbrook
22 Decree” includes all court orders, interlocutory
23 judgments, and decisions supplemental to the
24 “Modified Final Judgment And Decree”, in-
25 cluding Interlocutory Judgment No. 30, Inter-

1 locutory Judgment No. 35, and Interlocutory
2 Judgment No. 41.

3 (14) FUND.—The term “Fund” means the
4 Pechanga Settlement Fund established by section
5 3409.

6 (15) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given the term in section 4 of the
8 Indian Self-Determination and Education Assistance
9 Act (25 U.S.C. 5304).

10 (16) INJURY TO WATER RIGHTS.—The term
11 “injury to water rights” means an interference with,
12 diminution of, or deprivation of water rights under
13 Federal or State law.

14 (17) INTERIM CAPACITY.—The term “Interim
15 Capacity” has the meaning set forth in the ESAA
16 Capacity Agreement.

17 (18) INTERIM CAPACITY NOTICE.—The term
18 “Interim Capacity Notice” has the meaning set
19 forth in the ESAA Capacity Agreement.

20 (19) INTERLOCUTORY JUDGMENT NO. 41.—The
21 term “Interlocutory Judgment No. 41” means Inter-
22 locutory Judgment No. 41 issued in the Adjudica-
23 tion Proceeding on November 8, 1962, including all
24 court orders, judgments, and decisions supplemental
25 to that interlocutory judgment.

1 (20) MWD.—The term “MWD” means the
2 Metropolitan Water District of Southern California,
3 a metropolitan water district organized and incor-
4 porated under the Metropolitan Water District Act
5 of the State of California (Stats. 1969, Chapter 209,
6 as amended).

7 (21) MWD CONNECTION FEE.—The term
8 “MWD Connection Fee” has the meaning set forth
9 in the Extension of Service Area Agreement.

10 (22) PECHANGA ESAA DELIVERY CAPACITY AC-
11 COUNT.—The term “Pechanga ESAA Delivery Ca-
12 pacity account” means the account established by
13 section 3409(c)(2).

14 (23) PECHANGA RECYCLED WATER INFRA-
15 STRUCTURE ACCOUNT.—The term “Pechanga Recy-
16 cled Water Infrastructure account” means the ac-
17 count established by section 3409(c)(1).

18 (24) PECHANGA SETTLEMENT AGREEMENT.—
19 The term “Pechanga Settlement Agreement” means
20 the Pechanga Settlement Agreement, dated April 8,
21 2016, together with the exhibits to that agreement,
22 entered into by the Band, the United States on be-
23 half of the Band, its members and Allottees, MWD,
24 EMWD, and RCWD, including—

1 (A) the Extension of Service Area Agree-
2 ment;

3 (B) the ESAA Capacity Agreement; and

4 (C) the ESAA Water Delivery Agreement.

5 (25) PECHANGA WATER CODE.—The term
6 “Pechanga Water Code” means a water code to be
7 adopted by the Band in accordance with section
8 3405(f).

9 (26) PECHANGA WATER FUND ACCOUNT.—The
10 term “Pechanga Water Fund account” means the
11 account established by section 3409(c)(3).

12 (27) PECHANGA WATER QUALITY ACCOUNT.—
13 The term “Pechanga Water Quality account” means
14 the account established by section 3409(c)(4).

15 (28) PERMANENT CAPACITY.—The term “Per-
16 manent Capacity” has the meaning set forth in the
17 ESAA Capacity Agreement.

18 (29) PERMANENT CAPACITY NOTICE.—The
19 term “Permanent Capacity Notice” has the meaning
20 set forth in the ESAA Capacity Agreement.

21 (30) RCWD.—

22 (A) IN GENERAL.—The term “RCWD”
23 means the Rancho California Water District or-
24 ganized pursuant to section 34000 et seq. of
25 the California Water Code.

1 (B) INCLUSIONS.—The term “RCWD” in-
2 cludes all real property owners for whom
3 RCWD acts as an agent pursuant to an agency
4 agreement.

5 (31) RECYCLED WATER INFRASTRUCTURE
6 AGREEMENT.—The term “Recycled Water Infra-
7 structure Agreement” means the “Recycled Water
8 Infrastructure Agreement” among the Band,
9 RCWD, and the United States.

10 (32) RECYCLED WATER TRANSFER AGREE-
11 MENT.—The term “Recycled Water Transfer Agree-
12 ment” means the “Recycled Water Transfer Agree-
13 ment” between the Band and RCWD.

14 (33) RESERVATION.—

15 (A) IN GENERAL.—The term “Reserva-
16 tion” means the land depicted on the map at-
17 tached to the Pechanga Settlement Agreement
18 as Exhibit I.

19 (B) APPLICABILITY OF TERM.—The term
20 “Reservation” shall be used solely for the pur-
21 poses of the Pechanga Settlement Agreement,
22 this subtitle, and any judgment or decree issued
23 by the Adjudication Court approving the
24 Pechanga Settlement Agreement.

1 (34) SANTA MARGARITA RIVER WATERSHED.—
2 The term “Santa Margarita River Watershed”
3 means the watershed that is the subject of the Adju-
4 dication Proceeding and the Fallbrook Decree.

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

7 (36) STATE.—The term “State” means the
8 State of California.

9 (37) STORAGE POND.—The term “Storage
10 Pond” has the meaning set forth in the Recycled
11 Water Infrastructure Agreement.

12 (38) TRIBAL WATER RIGHT.—The term “Tribal
13 Water Right” means the water rights ratified, con-
14 firmed, and declared to be valid for the benefit of
15 the Band and Allottees, as set forth and described
16 in section 3405.

17 **SEC. 3404. APPROVAL OF THE PECHANGA SETTLEMENT**
18 **AGREEMENT.**

19 (a) RATIFICATION OF PECHANGA SETTLEMENT
20 AGREEMENT.—

21 (1) IN GENERAL.—Except as modified by this
22 subtitle, and to the extent that the Pechanga Settle-
23 ment Agreement does not conflict with this subtitle,
24 the Pechanga Settlement Agreement is authorized,
25 ratified, and confirmed.

1 (2) AMENDMENTS.—Any amendment to the
2 Pechanga Settlement Agreement is authorized, rati-
3 fied, and confirmed, to the extent that the amend-
4 ment is executed to make the Pechanga Settlement
5 Agreement consistent with this subtitle.

6 (b) EXECUTION OF PECHANGA SETTLEMENT AGREE-
7 MENT.—

8 (1) IN GENERAL.—To the extent that the
9 Pechanga Settlement Agreement does not conflict
10 with this subtitle, the Secretary is directed to and
11 promptly shall execute—

12 (A) the Pechanga Settlement Agreement
13 (including any exhibit to the Pechanga Settle-
14 ment Agreement requiring the signature of the
15 Secretary); and

16 (B) any amendment to the Pechanga Set-
17 tlement Agreement necessary to make the
18 Pechanga Settlement Agreement consistent with
19 this subtitle.

20 (2) MODIFICATIONS.—Nothing in this subtitle
21 precludes the Secretary from approving modifica-
22 tions to exhibits to the Pechanga Settlement Agree-
23 ment not inconsistent with this subtitle, to the ex-
24 tent those modifications do not otherwise require
25 congressional approval pursuant to section 2116 of

1 the Revised Statutes (25 U.S.C. 177) or other appli-
2 cable Federal law.

3 (c) ENVIRONMENTAL COMPLIANCE.—

4 (1) IN GENERAL.—In implementing the
5 Pechanga Settlement Agreement, the Secretary shall
6 promptly comply with all applicable requirements
7 of—

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

10 (B) the Endangered Species Act of 1973
11 (16 U.S.C. 1531 et seq.);

12 (C) all other applicable Federal environ-
13 mental laws; and

14 (D) all regulations promulgated under the
15 laws described in subparagraphs (A) through
16 (C).

17 (2) EXECUTION OF THE PECHANGA SETTLE-
18 MENT AGREEMENT.—

19 (A) IN GENERAL.—Execution of the
20 Pechanga Settlement Agreement by the Sec-
21 retary under this section shall not constitute a
22 major Federal action under the National Envi-
23 ronmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.).

1 (B) COMPLIANCE.—The Secretary is di-
2 rected to carry out all Federal compliance nec-
3 essary to implement the Pechanga Settlement
4 Agreement.

5 (3) LEAD AGENCY.—The Bureau of Reclama-
6 tion shall be designated as the lead agency with re-
7 spect to environmental compliance.

8 **SEC. 3405. TRIBAL WATER RIGHT.**

9 (a) INTENT OF CONGRESS.—It is the intent of Con-
10 gress to provide to each Allottee benefits that are equal
11 to or exceed the benefits Allottees possess as of the date
12 of enactment of this Act, taking into consideration—

13 (1) the potential risks, cost, and time delay as-
14 sociated with litigation that would be resolved by the
15 Pechanga Settlement Agreement and this subtitle;

16 (2) the availability of funding under this sub-
17 title;

18 (3) the availability of water from the Tribal
19 Water Right and other water sources as set forth in
20 the Pechanga Settlement Agreement; and

21 (4) the applicability of section 7 of the Act of
22 February 8, 1887 (25 U.S.C. 381), and this subtitle
23 to protect the interests of Allottees.

24 (b) CONFIRMATION OF TRIBAL WATER RIGHT.—

1 (1) IN GENERAL.—A Tribal Water Right of up
2 to 4,994 acre-feet of water per year that, under nat-
3 ural conditions, is physically available on the Res-
4 ervation is confirmed in accordance with the Find-
5 ings of Fact and Conclusions of Law set forth in In-
6 terlocutory Judgment No. 41, as affirmed by the
7 Fallbrook Decree.

8 (2) USE.—Subject to the terms of the
9 Pechanga Settlement Agreement, this subtitle, the
10 Fallbrook Decree, and applicable Federal law, the
11 Band may use the Tribal Water Right for any pur-
12 pose on the Reservation.

13 (c) HOLDING IN TRUST.—The Tribal Water Right,
14 as set forth in subsection (b), shall—

15 (1) be held in trust by the United States on be-
16 half of the Band and the Allottees in accordance
17 with this section;

18 (2) include the priority dates described in Inter-
19 locutory Judgment No. 41, as affirmed by the
20 Fallbrook Decree; and

21 (3) not be subject to forfeiture or abandonment.

22 (d) ALLOTTEES.—

23 (1) APPLICABILITY OF ACT OF FEBRUARY 8,
24 1887.—The provisions of section 7 of the Act of Feb-
25 ruary 8, 1887 (25 U.S.C. 381), relating to the use

1 of water for irrigation purposes shall apply to the
2 Tribal Water Right.

3 (2) ENTITLEMENT TO WATER.—Any entitle-
4 ment to water of an Allottee under Federal law shall
5 be satisfied from the Tribal Water Right.

6 (3) ALLOCATIONS.—Allotted land located within
7 the exterior boundaries of the Reservation shall be
8 entitled to a just and equitable allocation of water
9 for irrigation and domestic purposes from the Tribal
10 Water Right.

11 (4) EXHAUSTION OF REMEDIES.—Before as-
12 serting any claim against the United States under
13 section 7 of the Act of February 8, 1887 (25 U.S.C.
14 381), or any other applicable law, an Allottee shall
15 exhaust remedies available under the Pechanga
16 Water Code or other applicable tribal law.

17 (5) CLAIMS.—Following exhaustion of remedies
18 available under the Pechanga Water Code or other
19 applicable tribal law, an Allottee may seek relief
20 under section 7 of the Act of February 8, 1887 (25
21 U.S.C. 381), or other applicable law.

22 (6) AUTHORITY.—The Secretary shall have the
23 authority to protect the rights of Allottees as speci-
24 fied in this section.

25 (e) AUTHORITY OF BAND.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the Band shall have authority to use, al-
3 locate, distribute, and lease the Tribal Water Right
4 on the Reservation in accordance with—

5 (A) the Pechanga Settlement Agreement;
6 and

7 (B) applicable Federal law.

8 (2) LEASES BY ALLOTTEES.—

9 (A) IN GENERAL.—An Allottee may lease
10 any interest in land held by the Allottee, to-
11 gether with any water right determined to be
12 appurtenant to that interest in land.

13 (B) WATER RIGHT APPURTENANT.—Any
14 water right determined to be appurtenant to an
15 interest in land leased by an Allottee shall be
16 used on such land on the Reservation.

17 (f) PECHANGA WATER CODE.—

18 (1) IN GENERAL.—Not later than 18 months
19 after the enforceability date, the Band shall enact a
20 Pechanga Water Code, that provides for—

21 (A) the management, regulation, and gov-
22 ernance of all uses of the Tribal Water Right
23 in accordance with the Pechanga Settlement
24 Agreement; and

1 (B) establishment by the Band of condi-
2 tions, permit requirements, and other limita-
3 tions relating to the storage, recovery, and use
4 of the Tribal Water Right in accordance with
5 the Pechanga Settlement Agreement.

6 (2) INCLUSIONS.—Subject to the approval of
7 the Secretary, the Pechanga Water Code shall pro-
8 vide—

9 (A) that allocations of water to Allottees
10 shall be satisfied with water from the Tribal
11 Water Right;

12 (B) that charges for delivery of water for
13 irrigation purposes for Allottees shall be as-
14 sessed on a just and equitable basis;

15 (C) a process by which an Allottee may re-
16 quest that the Band provide water for irrigation
17 or domestic purposes in accordance with this
18 subtitle;

19 (D) a due process system for the consider-
20 ation and determination by the Band of any re-
21 quest by an Allottee (or any successor in inter-
22 est to an Allottee) for an allocation of such
23 water for irrigation or domestic purposes on al-
24 lotted land, including a process for—

1 (i) appeal and adjudication of any de-
2 nied or disputed distribution of water; and

3 (ii) resolution of any contested admin-
4 istrative decision; and

5 (E) a requirement that any Allottee with a
6 claim relating to the enforcement of rights of
7 the Allottee under the Pechanga Water Code or
8 relating to the amount of water allocated to
9 land of the Allottee must first exhaust remedies
10 available to the Allottee under tribal law and
11 the Pechanga Water Code before initiating an
12 action against the United States or petitioning
13 the Secretary pursuant to subsection (d)(4).

14 (3) ACTION BY SECRETARY.—

15 (A) IN GENERAL.—The Secretary shall ad-
16 minister the Tribal Water Right until the
17 Pechanga Water Code is enacted and approved
18 under this section.

19 (B) APPROVAL.—Any provision of the
20 Pechanga Water Code and any amendment to
21 the Pechanga Water Code that affects the
22 rights of Allottees—

23 (i) shall be subject to the approval of
24 the Secretary; and

1 (ii) shall not be valid until approved
2 by the Secretary.

3 (C) APPROVAL PERIOD.—The Secretary
4 shall approve or disapprove the Pechanga
5 Water Code within a reasonable period of time
6 after the date on which the Band submits the
7 Pechanga Water Code to the Secretary for ap-
8 proval.

9 (g) EFFECT.—Except as otherwise specifically pro-
10 vided in this section, nothing in this subtitle—

11 (1) authorizes any action by an Allottee against
12 any individual or entity, or against the Band, under
13 Federal, State, tribal, or local law; or

14 (2) alters or affects the status of any action
15 pursuant to section 1491(a) of title 28, United
16 States Code.

17 **SEC. 3406. SATISFACTION OF CLAIMS.**

18 (a) IN GENERAL.—The benefits provided to the Band
19 under the Pechanga Settlement Agreement and this sub-
20 title shall be in complete replacement of, complete substi-
21 tution for, and full satisfaction of all claims of the Band
22 against the United States that are waived and released
23 pursuant to section 3407.

24 (b) ALLOTTEE CLAIMS.—The benefits realized by the
25 Allottees under this subtitle shall be in complete replace-

1 ment of, complete substitution for, and full satisfaction
2 of—

3 (1) all claims that are waived and released pur-
4 suant to section 3407; and

5 (2) any claims of the Allottees against the
6 United States that the Allottees have or could have
7 asserted that are similar in nature to any claim de-
8 scribed in section 3407.

9 (c) NO RECOGNITION OF WATER RIGHTS.—Except
10 as provided in section 3405(d), nothing in this subtitle rec-
11 ognizes or establishes any right of a member of the Band
12 or an Allottee to water within the Reservation.

13 (d) CLAIMS RELATING TO DEVELOPMENT OF WATER
14 FOR RESERVATION.—

15 (1) IN GENERAL.—The amounts authorized to
16 be appropriated pursuant to section 3411 shall be
17 used to satisfy any claim of the Allottees against the
18 United States with respect to the development or
19 protection of water resources for the Reservation.

20 (2) SATISFACTION OF CLAIMS.—Upon the com-
21 plete appropriation of amounts authorized pursuant
22 to section 3411, any claim of the Allottees against
23 the United States with respect to the development or
24 protection of water resources for the Reservation
25 shall be deemed to have been satisfied.

1 **SEC. 3407. WAIVER OF CLAIMS.**

2 (a) IN GENERAL.—

3 (1) WAIVER OF CLAIMS BY THE BAND AND THE
4 UNITED STATES ACTING IN ITS CAPACITY AS TRUST-
5 EE FOR THE BAND.—

6 (A) IN GENERAL.—Subject to the retention
7 of rights set forth in subsection (c), in return
8 for recognition of the Tribal Water Right and
9 other benefits as set forth in the Pechanga Set-
10 tlement Agreement and this subtitle, the Band,
11 and the United States, acting as trustee for the
12 Band, are authorized and directed to execute a
13 waiver and release of all claims for water rights
14 within the Santa Margarita River Watershed
15 that the Band, or the United States acting as
16 trustee for the Band, asserted or could have as-
17 serted in any proceeding, including the Adju-
18 dication Proceeding, except to the extent that
19 such rights are recognized in the Pechanga Set-
20 tlement Agreement and this subtitle.

21 (B) CLAIMS AGAINST RCWD.—Subject to
22 the retention of rights set forth in subsection
23 (c) and notwithstanding any provisions to the
24 contrary in the Pechanga Settlement Agree-
25 ment, the Band and the United States, on be-

1 half of the Band and Allottees, fully release, ac-
2 quit, and discharge RCWD from—

3 (i) claims for injuries to water rights
4 in the Santa Margarita River Watershed
5 for land located within the Reservation
6 arising or occurring at any time up to and
7 including June 30, 2009;

8 (ii) claims for injuries to water rights
9 in the Santa Margarita River Watershed
10 for land located within the Reservation
11 arising or occurring at any time after June
12 30, 2009, resulting from the diversion or
13 use of water in a manner not in violation
14 of the Pechanga Settlement Agreement or
15 this subtitle;

16 (iii) claims for subsidence damage to
17 land located within the Reservation arising
18 or occurring at any time up to and includ-
19 ing June 30, 2009;

20 (iv) claims for subsidence damage
21 arising or occurring after June 30, 2009,
22 to land located within the Reservation re-
23 sulting from the diversion of underground
24 water in a manner consistent with the

1 Pechanga Settlement Agreement or this
2 subtitle; and

3 (v) claims arising out of, or relating in
4 any manner to, the negotiation or execu-
5 tion of the Pechanga Settlement Agree-
6 ment or the negotiation or execution of
7 this subtitle.

8 (2) CLAIMS BY THE UNITED STATES ACTING IN
9 ITS CAPACITY AS TRUSTEE FOR ALLOTTEES.—Sub-
10 ject to the retention of claims set forth in subsection
11 (c), in return for recognition of the Tribal Water
12 Right and other benefits as set forth in the
13 Pechanga Settlement Agreement and this subtitle,
14 the United States, acting as trustee for Allottees, is
15 authorized and directed to execute a waiver and re-
16 lease of all claims for water rights within the Santa
17 Margarita River Watershed that the United States,
18 acting as trustee for the Allottees, asserted or could
19 have asserted in any proceeding, including the Adju-
20 dication Proceeding, except to the extent such rights
21 are recognized in the Pechanga Settlement Agree-
22 ment and this subtitle.

23 (3) CLAIMS BY THE BAND AGAINST THE
24 UNITED STATES.—Subject to the retention of rights

1 set forth in subsection (c), the Band, is authorized
2 to execute a waiver and release of—

3 (A) all claims against the United States
4 (including the agencies and employees of the
5 United States) relating to claims for water
6 rights in, or water of, the Santa Margarita
7 River Watershed that the United States, acting
8 in its capacity as trustee for the Band, as-
9 serted, or could have asserted, in any pro-
10 ceeding, including the Adjudication Proceeding,
11 except to the extent that those rights are recog-
12 nized in the Pechanga Settlement Agreement
13 and this subtitle;

14 (B) all claims against the United States
15 (including the agencies and employees of the
16 United States) relating to damages, losses, or
17 injuries to water, water rights, land, or natural
18 resources due to loss of water or water rights
19 (including damages, losses or injuries to hunt-
20 ing, fishing, gathering, or cultural rights due to
21 loss of water or water rights, claims relating to
22 interference with, diversion, or taking of water
23 or water rights, or claims relating to failure to
24 protect, acquire, replace, or develop water,
25 water rights, or water infrastructure) in the

1 Santa Margarita River Watershed that first ac-
2 crued at any time up to and including the en-
3 forceability date;

4 (C) all claims against the United States
5 (including the agencies and employees of the
6 United States) relating to the pending litigation
7 of claims relating to the water rights of the
8 Band in the Adjudication Proceeding; and

9 (D) all claims against the United States
10 (including the agencies and employees of the
11 United States) relating to the negotiation or
12 execution of the Pechanga Settlement Agree-
13 ment or the negotiation or execution of this
14 subtitle.

15 (b) EFFECTIVENESS OF WAIVERS AND RELEASES.—
16 The waivers under subsection (a) shall take effect on the
17 enforceability date.

18 (c) RESERVATION OF RIGHTS AND RETENTION OF
19 CLAIMS.—Notwithstanding the waivers and releases au-
20 thorized in this subtitle, the Band, on behalf of itself and
21 the members of the Band, and the United States, acting
22 in its capacity as trustee for the Band and Allottees, re-
23 tain—

24 (1) all claims for enforcement of the Pechanga
25 Settlement Agreement and this subtitle;

1 (2) all claims against any person or entity other
2 than the United States and RCWD, including claims
3 for monetary damages;

4 (3) all claims for water rights that are outside
5 the jurisdiction of the Adjudication Court;

6 (4) all rights to use and protect water rights ac-
7 quired on or after the enforceability date; and

8 (5) all remedies, privileges, immunities, powers,
9 and claims, including claims for water rights, not
10 specifically waived and released pursuant to this
11 subtitle and the Pechanga Settlement Agreement.

12 (d) EFFECT OF PECHANGA SETTLEMENT AGREE-
13 MENT AND ACT.—Nothing in the Pechanga Settlement
14 Agreement or this subtitle—

15 (1) affects the ability of the United States, act-
16 ing as a sovereign, to take actions authorized by law,
17 including any laws relating to health, safety, or the
18 environment, including—

19 (A) the Comprehensive Environmental Re-
20 sponse, Compensation, and Liability Act of
21 1980 (42 U.S.C. 9601 et seq.);

22 (B) the Safe Drinking Water Act (42
23 U.S.C. 300f et seq.);

24 (C) the Federal Water Pollution Control
25 Act (33 U.S.C. 1251 et seq.); and

1 (D) any regulations implementing the Acts
2 described in subparagraphs (A) through (C);

3 (2) affects the ability of the United States to
4 take actions acting as trustee for any other Indian
5 tribe or an Allottee of any other Indian tribe;

6 (3) confers jurisdiction on any State court—

7 (A) to interpret Federal law regarding
8 health, safety, or the environment;

9 (B) to determine the duties of the United
10 States or other parties pursuant to Federal law
11 regarding health, safety, or the environment; or

12 (C) to conduct judicial review of Federal
13 agency action;

14 (4) waives any claim of a member of the Band
15 in an individual capacity that does not derive from
16 a right of the Band;

17 (5) limits any funding that RCWD would other-
18 wise be authorized to receive under any Federal law,
19 including, the Reclamation Wastewater and Ground-
20 water Study and Facilities Act (43 U.S.C. 390h et
21 seq.) as that Act applies to permanent facilities for
22 water recycling, demineralization, and desalination,
23 and distribution of nonpotable water supplies in
24 Southern Riverside County, California;

1 (6) characterizes any amounts received by
2 RCWD under the Pechanga Settlement Agreement
3 or this subtitle as Federal for purposes of section
4 1649 of the Reclamation Wastewater and Ground-
5 water Study and Facilities Act (43 U.S.C. 390h–
6 32); or

7 (7) affects the requirement of any party to the
8 Pechanga Settlement Agreement or any of the exhib-
9 its to the Pechanga Settlement Agreement to comply
10 with the National Environmental Policy Act of 1969
11 (42 U.S.C. 4321 et seq.) or the California Environ-
12 mental Quality Act (Cal. Pub. Res. Code 21000 et
13 seq.) prior to performing the respective obligations
14 of that party under the Pechanga Settlement Agree-
15 ment or any of the exhibits to the Pechanga Settle-
16 ment Agreement.

17 (e) ENFORCEABILITY DATE.—The enforceability date
18 shall be the date on which the Secretary publishes in the
19 Federal Register a statement of findings that—

20 (1) the Adjudication Court has approved and
21 entered a judgment and decree approving the
22 Pechanga Settlement Agreement in substantially the
23 same form as Appendix 2 to the Pechanga Settle-
24 ment Agreement;

1 (2) all amounts authorized by this subtitle have
2 been deposited in the Fund;

3 (3) the waivers and releases authorized in sub-
4 section (a) have been executed by the Band and the
5 Secretary;

6 (4) the Extension of Service Area Agreement—

7 (A) has been approved and executed by all
8 the parties to the Extension of Service Area
9 Agreement; and

10 (B) is effective and enforceable in accord-
11 ance with the terms of the Extension of Service
12 Area Agreement; and

13 (5) the ESAA Water Delivery Agreement—

14 (A) has been approved and executed by all
15 the parties to the ESAA Water Delivery Agree-
16 ment; and

17 (B) is effective and enforceable in accord-
18 ance with the terms of the ESAA Water Deliv-
19 ery Agreement.

20 (f) TOLLING OF CLAIMS.—

21 (1) IN GENERAL.—Each applicable period of
22 limitation and time-based equitable defense relating
23 to a claim described in this section shall be tolled for
24 the period beginning on the date of enactment of
25 this Act and ending on the earlier of—

1 (A) April 30, 2030, or such alternate date
2 after April 30, 2030, as is agreed to by the
3 Band and the Secretary; or

4 (B) the enforceability date.

5 (2) EFFECTS OF SUBSECTION.—Nothing in this
6 subsection revives any claim or tolls any period of
7 limitation or time-based equitable defense that ex-
8 pired before the date of enactment of this Act.

9 (3) LIMITATION.—Nothing in this section pre-
10 cludes the tolling of any period of limitations or any
11 time-based equitable defense under any other appli-
12 cable law.

13 (g) TERMINATION.—

14 (1) IN GENERAL.—If all of the amounts author-
15 ized to be appropriated to the Secretary pursuant to
16 this subtitle have not been made available to the
17 Secretary by April 30, 2030—

18 (A) the waivers authorized by this section
19 shall expire and have no force or effect; and

20 (B) all statutes of limitations applicable to
21 any claim otherwise waived under this section
22 shall be tolled until April 30, 2030.

23 (2) VOIDING OF WAIVERS.—If a waiver author-
24 ized by this section is void under paragraph (1)—

1 (A) the approval of the United States of
2 the Pechanga Settlement Agreement under sec-
3 tion 3404 shall be void and have no further
4 force or effect;

5 (B) any unexpended Federal amounts ap-
6 propriated or made available to carry out this
7 subtitle, together with any interest earned on
8 those amounts, and any water rights or con-
9 tracts to use water and title to other property
10 acquired or constructed with Federal amounts
11 appropriated or made available to carry out this
12 subtitle shall be returned to the Federal Gov-
13 ernment, unless otherwise agreed to by the
14 Band and the United States and approved by
15 Congress; and

16 (C) except for Federal amounts used to ac-
17 quire or develop property that is returned to the
18 Federal Government under subparagraph (B),
19 the United States shall be entitled to set off
20 any Federal amounts appropriated or made
21 available to carry out this subtitle that were ex-
22 pended or withdrawn, together with any interest
23 accrued, against any claims against the United
24 States relating to water rights asserted by the

1 Band or Allottees in any future settlement of
2 the water rights of the Band or Allottees.

3 **SEC. 3408. WATER FACILITIES.**

4 (a) IN GENERAL.—The Secretary shall, subject to the
5 availability of appropriations, using amounts from the des-
6 ignated accounts of the Fund, provide the amounts nec-
7 essary to fulfill the obligations of the Band under the Re-
8 cycled Water Infrastructure Agreement and the ESAA Ca-
9 pacity Agreement, in an amount not to exceed the
10 amounts deposited in the designated accounts for such
11 purposes plus any interest accrued on such amounts from
12 the date of deposit in the Fund to the date of disburse-
13 ment from the Fund, in accordance with this subtitle and
14 the terms and conditions of those agreements.

15 (b) NONREIMBURSABILITY OF COSTS.—All costs in-
16 curred by the Secretary in carrying out this section shall
17 be nonreimbursable.

18 (c) RECYCLED WATER INFRASTRUCTURE.—

19 (1) IN GENERAL.—The Secretary shall, using
20 amounts from the Pechanga Recycled Water Infra-
21 structure account, provide amounts for the Storage
22 Pond in accordance with this section.

23 (2) STORAGE POND.—

24 (A) IN GENERAL.—The Secretary shall,
25 subject to the availability of appropriations,

1 using amounts from the Pechanga Recycled
2 Water Infrastructure account provide the
3 amounts necessary for a Storage Pond in ac-
4 cordance with the Recycled Water Infrastruc-
5 ture Agreement, in an amount not to exceed
6 \$2,656,374.

7 (B) PROCEDURE.—The procedure for the
8 Secretary to provide amounts pursuant to this
9 section shall be as set forth in the Recycled
10 Water Infrastructure Agreement.

11 (C) LIABILITY.—The United States shall
12 have no responsibility or liability for the Stor-
13 age Pond.

14 (d) ESAA DELIVERY CAPACITY.—

15 (1) IN GENERAL.—The Secretary shall, using
16 amounts from the Pechanga ESAA Delivery Capac-
17 ity account, provide amounts for Interim Capacity
18 and Permanent Capacity in accordance with this
19 section.

20 (2) INTERIM CAPACITY.—

21 (A) IN GENERAL.—The Secretary shall,
22 subject to the availability of appropriations,
23 using amounts from the ESAA Delivery Capac-
24 ity account, provide amounts necessary for the
25 provision of Interim Capacity in accordance

1 with the ESAA Capacity Agreement in an
2 amount not to exceed \$1,000,000.

3 (B) PROCEDURE.—The procedure for the
4 Secretary to provide amounts pursuant to this
5 section shall be as set forth in the ESAA Ca-
6 pacity Agreement.

7 (C) LIABILITY.—The United States shall
8 have no responsibility or liability for the In-
9 terim Capacity to be provided by RCWD or by
10 the Band.

11 (D) TRANSFER TO BAND.—If RCWD does
12 not provide the Interim Capacity Notice re-
13 quired pursuant to the ESAA Capacity Agree-
14 ment by the date that is 60 days after the date
15 required under the ESAA Capacity Agreement,
16 the amounts in the Pechanga ESAA Delivery
17 Capacity account for purposes of the provision
18 of Interim Capacity and Permanent Capacity,
19 including any interest that has accrued on those
20 amounts, shall be available for use by the Band
21 to provide alternative interim capacity in a
22 manner that is similar to the Interim Capacity
23 and Permanent Capacity that the Band would
24 have received had RCWD provided such Interim
25 Capacity and Permanent Capacity.

1 (3) PERMANENT CAPACITY.—

2 (A) IN GENERAL.—The Secretary shall,
3 subject to the availability of appropriations,
4 using amounts from the ESAA Delivery Capac-
5 ity account, provide amounts necessary for the
6 provision of Permanent Capacity in accordance
7 with the ESAA Capacity Agreement.

8 (B) PROCEDURE.—The procedure for the
9 Secretary to provide funds pursuant to this sec-
10 tion shall be as set forth in the ESAA Capacity
11 Agreement.

12 (C) LIABILITY.—The United States shall
13 have no responsibility or liability for the Perma-
14 nent Capacity to be provided by RCWD or by
15 the Band.

16 (D) TRANSFER TO BAND.—If RCWD does
17 not provide the Permanent Capacity Notice re-
18 quired pursuant to the ESAA Capacity Agree-
19 ment by the date that is 5 years after the en-
20 forceability date, the amounts in the Pechanga
21 ESAA Delivery Capacity account for purposes
22 of the provision of Permanent Capacity, includ-
23 ing any interest that has accrued on those
24 amounts, shall be available for use by the Band
25 to provide alternative Permanent Capacity in a

1 manner that is similar to the Permanent Ca-
2 pacity that the Band would have received had
3 RCWD provided such Permanent Capacity.

4 **SEC. 3409. PECHANGA SETTLEMENT FUND.**

5 (a) ESTABLISHMENT.—There is established in the
6 Treasury of the United States a fund to be known as the
7 “Pechanga Settlement Fund”, to be managed, invested,
8 and distributed by the Secretary and to be available until
9 expended, and, together with any interest earned on those
10 amounts, to be used solely for the purpose of carrying out
11 this subtitle.

12 (b) TRANSFERS TO FUND.—The Fund shall consist
13 of such amounts as are deposited in the Fund under sec-
14 tion 3411(a) of this subtitle, together with any interest
15 earned on those amounts, which shall be available in ac-
16 cordance with subsection (e).

17 (c) ACCOUNTS OF PECHANGA SETTLEMENT FUND.—
18 The Secretary shall establish in the Fund the following
19 accounts:

20 (1) Pechanga Recycled Water Infrastructure ac-
21 count, consisting of amounts authorized pursuant to
22 section 3411(a)(1).

23 (2) Pechanga ESAA Delivery Capacity account,
24 consisting of amounts authorized pursuant to section
25 3411(a)(2).

1 (3) Pechanga Water Fund account, consisting
2 of amounts authorized pursuant to section
3 3411(a)(3).

4 (4) Pechanga Water Quality account, consisting
5 of amounts authorized pursuant to section
6 3411(a)(4).

7 (d) MANAGEMENT OF FUND.—The Secretary shall
8 manage, invest, and distribute all amounts in the Fund
9 in a manner that is consistent with the investment author-
10 ity of the Secretary under—

11 (1) the first section of the Act of June 24,
12 1938 (25 U.S.C. 162a);

13 (2) the American Indian Trust Fund Manage-
14 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.);
15 and

16 (3) this section.

17 (e) AVAILABILITY OF AMOUNTS.—Amounts appro-
18 priated to, and deposited in, the Fund, including any in-
19 vestment earnings accrued from the date of deposit in the
20 Fund through the date of disbursement from the Fund,
21 shall be made available to the Band by the Secretary be-
22 ginning on the enforceability date.

23 (f) WITHDRAWALS BY BAND PURSUANT TO THE
24 AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM
25 ACT.—

1 (1) IN GENERAL.—The Band may withdraw all
2 or part of the amounts in the Fund on approval by
3 the Secretary of a tribal management plan sub-
4 mitted by the Band in accordance with the American
5 Indian Trust Fund Management Reform Act of
6 1994 (25 U.S.C. 4001 et seq.).

7 (2) REQUIREMENTS.—

8 (A) IN GENERAL.—In addition to the re-
9 quirements under the American Indian Trust
10 Fund Management Reform Act of 1994 (25
11 U.S.C. 4001 et seq.), the tribal management
12 plan under paragraph (1) shall require that the
13 Band shall spend all amounts withdrawn from
14 the Fund in accordance with this subtitle.

15 (B) ENFORCEMENT.—The Secretary may
16 carry out such judicial or administrative actions
17 as the Secretary determines to be necessary to
18 enforce the tribal management plan to ensure
19 that amounts withdrawn by the Band from the
20 Fund under this subsection are used in accord-
21 ance with this subtitle.

22 (g) WITHDRAWALS BY BAND PURSUANT TO AN EX-
23 PENDITURE PLAN.—

24 (1) IN GENERAL.—The Band may submit an
25 expenditure plan for approval by the Secretary re-

1 questing that all or part of the amounts in the Fund
2 be disbursed in accordance with the plan.

3 (2) REQUIREMENTS.—The expenditure plan
4 under paragraph (1) shall include a description of
5 the manner and purpose for which the amounts pro-
6 posed to be disbursed from the Fund will be used,
7 in accordance with subsection (h).

8 (3) APPROVAL.—If the Secretary determines
9 that an expenditure plan submitted under this sub-
10 section is consistent with the purposes of this sub-
11 title, the Secretary shall approve the plan.

12 (4) ENFORCEMENT.—The Secretary may carry
13 out such judicial or administrative actions as the
14 Secretary determines necessary to enforce an ex-
15 penditure plan to ensure that amounts disbursed
16 under this subsection are used in accordance with
17 this subtitle.

18 (h) USES.—Amounts from the Fund shall be used by
19 the Band for the following purposes:

20 (1) PECHANGA RECYCLED WATER INFRASTRUC-
21 TURE ACCOUNT.—The Pechanga Recycled Water In-
22 frastructure account shall be used for expenditures
23 by the Band in accordance with section 3408(c).

24 (2) PECHANGA ESAA DELIVERY CAPACITY AC-
25 COUNT.—The Pechanga ESAA Delivery Capacity

1 account shall be used for expenditures by the Band
2 in accordance with section 3408(d).

3 (3) PECHANGA WATER FUND ACCOUNT.—The
4 Pechanga Water Fund account shall be used for—

5 (A) payment of the EMWD Connection
6 Fee;

7 (B) payment of the MWD Connection Fee;
8 and

9 (C) any expenses, charges, or fees incurred
10 by the Band in connection with the delivery or
11 use of water pursuant to the Pechanga Settle-
12 ment Agreement.

13 (4) PECHANGA WATER QUALITY ACCOUNT.—
14 The Pechanga Water Quality account shall be used
15 by the Band to fund groundwater desalination ac-
16 tivities within the Wolf Valley Basin.

17 (i) LIABILITY.—The Secretary and the Secretary of
18 the Treasury shall not be liable for the expenditure of,
19 or the investment of any amounts withdrawn from, the
20 Fund by the Band under subsection (f) or (g).

21 (j) NO PER CAPITA DISTRIBUTIONS.—No portion of
22 the Fund shall be distributed on a per capita basis to any
23 member of the Band.

1 **SEC. 3410. MISCELLANEOUS PROVISIONS.**

2 (a) WAIVER OF SOVEREIGN IMMUNITY BY THE
3 UNITED STATES.—Except as provided in subsections (a)
4 through (e) of section 208 of the Department of Justice
5 Appropriation Act, 1953 (43 U.S.C. 666), nothing in this
6 subtitle waives the sovereign immunity of the United
7 States.

8 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
9 Nothing in this subtitle quantifies or diminishes any land
10 or water right, or any claim or entitlement to land or
11 water, of an Indian tribe, band, or community other than
12 the Band.

13 (c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—
14 With respect to Indian land within the Reservation—

15 (1) the United States shall not submit against
16 any Indian-owned land located within the Reserva-
17 tion any claim for reimbursement of the cost to the
18 United States of carrying out this subtitle and the
19 Pechanga Settlement Agreement; and

20 (2) no assessment of any Indian-owned land lo-
21 cated within the Reservation shall be made regard-
22 ing that cost.

23 (d) EFFECT ON CURRENT LAW.—Nothing in this
24 section affects any provision of law (including regulations)
25 in effect on the day before the date of enactment of this

1 Act with respect to preenforcement review of any Federal
2 environmental enforcement action.

3 **SEC. 3411. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—

5 (1) PECHANGA RECYCLED WATER INFRASTRUC-
6 TURE ACCOUNT.—There is authorized to be appro-
7 priated \$2,656,374, for deposit in the Pechanga Re-
8 cycled Water Infrastructure account, to carry out
9 the activities described in section 3408(c).

10 (2) PECHANGA ESAA DELIVERY CAPACITY AC-
11 COUNT.—There is authorized to be appropriated
12 \$17,900,000, for deposit in the Pechanga ESAA De-
13 livery Capacity account, which amount shall be ad-
14 justed for changes in construction costs since June
15 30, 2009, as is indicated by ENR Construction Cost
16 Index, 20-City Average, as applicable to the types of
17 construction required for the Band to provide the in-
18 frastructure necessary for the Band to provide the
19 Interim Capacity and Permanent Capacity in the
20 event that RCWD elects not to provide the Interim
21 Capacity or Permanent Capacity as set forth in the
22 ESAA Capacity Agreement and contemplated in sec-
23 tions 3408(d)(2)(D) and 3408(d)(3)(D) of this sub-
24 title, with such adjustment ending on the date on

1 which funds authorized to be appropriated under
2 this section have been deposited in the Fund.

3 (3) PECHANGA WATER FUND ACCOUNT.—There
4 is authorized to be appropriated \$5,483,653, for de-
5 posit in the Pechanga Water Fund account, which
6 amount shall be adjusted for changes in appropriate
7 cost indices since June 30, 2009, with such adjust-
8 ment ending on the date of deposit in the Fund, for
9 the purposes set forth in section 3409(h)(3).

10 (4) PECHANGA WATER QUALITY ACCOUNT.—
11 There is authorized to be appropriated \$2,460,000,
12 for deposit in the Pechanga Water Quality account,
13 which amount shall be adjusted for changes in ap-
14 propriate cost indices since June 30, 2009, with
15 such adjustment ending on the date of deposit in the
16 Fund, for the purposes set forth in section
17 3409(h)(4).

18 **SEC. 3412. EXPIRATION ON FAILURE OF ENFORCEABILITY**

19 **DATE.**

20 If the Secretary does not publish a statement of find-
21 ings under section 3407(e) by April 30, 2021, or such al-
22 ternative later date as is agreed to by the Band and the
23 Secretary, as applicable—

1 (1) this subtitle expires on the later of May 1,
2 2021, or the day after the alternative date agreed to
3 by the Band and the Secretary;

4 (2) any action taken by the Secretary and any
5 contract or agreement pursuant to the authority pro-
6 vided under any provision of this subtitle shall be
7 void;

8 (3) any amounts appropriated under section
9 3411, together with any interest on those amounts,
10 shall immediately revert to the general fund of the
11 Treasury; and

12 (4) any amounts made available under section
13 3411 that remain unexpended shall immediately re-
14 vert to the general fund of the Treasury.

15 **SEC. 3413. ANTIDEFICIENCY.**

16 (a) **IN GENERAL.**—Notwithstanding any authoriza-
17 tion of appropriations to carry out this subtitle, the ex-
18 penditure or advance of any funds, and the performance
19 of any obligation by the Department in any capacity, pur-
20 suant to this subtitle shall be contingent on the appropria-
21 tion of funds for that expenditure, advance, or perform-
22 ance.

23 (b) **LIABILITY.**—The Department of the Interior
24 shall not be liable for the failure to carry out any obliga-

1 tion or activity authorized by this subtitle if adequate ap-
2 propriations are not provided to carry out this subtitle.

3 **Subtitle E—Delaware River Basin**
4 **Conservation**

5 **SEC. 3501. FINDINGS.**

6 Congress finds that—

7 (1) the Delaware River Basin is a national
8 treasure of great cultural, environmental, ecological,
9 and economic importance;

10 (2) the Basin contains over 12,500 square miles
11 of land in the States of Delaware, New Jersey, New
12 York, and Pennsylvania, including nearly 800 square
13 miles of bay and more than 2,000 tributary rivers
14 and streams;

15 (3) the Basin is home to more than 8,000,000
16 people who depend on the Delaware River and the
17 Delaware Bay as an economic engine, a place of
18 recreation, and a vital habitat for fish and wildlife;

19 (4) the Basin provides clean drinking water to
20 more than 15,000,000 people, including New York
21 City, which relies on the Basin for approximately
22 half of the drinking water supply of the city, and
23 Philadelphia, whose most significant threat to the
24 drinking water supply of the city is loss of forests
25 and other natural cover in the Upper Basin, accord-

1 ing to a study conducted by the Philadelphia Water
2 Department;

3 (5) the Basin contributes \$25,000,000,000 an-
4 nually in economic activity, provides
5 \$21,000,000,000 in ecosystem goods and services
6 per year, and is directly or indirectly responsible for
7 600,000 jobs with \$10,000,000,000 in annual
8 wages;

9 (6) almost 180 species of fish and wildlife are
10 considered special status species in the Basin due to
11 habitat loss and degradation, particularly sturgeon,
12 eastern oyster, horseshoe crabs, and red knots,
13 which have been identified as unique species in need
14 of habitat improvement;

15 (7) the Basin provides habitat for over 200
16 resident and migrant fish species, includes signifi-
17 cant recreational fisheries, and is an important
18 source of eastern oyster, blue crab, and the largest
19 population of the American horseshoe crab;

20 (8) the annual dockside value of commercial
21 eastern oyster fishery landings for the Delaware Es-
22 tuary is nearly \$4,000,000, making it the fourth
23 most lucrative fishery in the Delaware River Basin
24 watershed, and proven management strategies are

1 available to increase oyster habitat, abundance, and
2 harvest;

3 (9) the Delaware Bay has the second largest
4 concentration of shorebirds in North America and is
5 designated as one of the 4 most important shorebird
6 migration sites in the world;

7 (10) the Basin, 50 percent of which is forested,
8 also has over 700,000 acres of wetland, more than
9 126,000 acres of which are recognized as inter-
10 nationally important, resulting in a landscape that
11 provides essential ecosystem services, including
12 recreation, commercial, and water quality benefits;

13 (11) much of the remaining exemplary natural
14 landscape in the Basin is vulnerable to further deg-
15 radation, as the Basin gains approximately 10
16 square miles of developed land annually, and with
17 new development, urban watersheds are increasingly
18 covered by impervious surfaces, amplifying the quan-
19 tity of polluted runoff into rivers and streams;

20 (12) the Delaware River is the longest
21 undammed river east of the Mississippi; a critical
22 component of the National Wild and Scenic Rivers
23 System in the Northeast, with more than 400 miles
24 designated; home to one of the most heavily visited
25 National Park units in the United States, the Dela-

1 ware Water Gap National Recreation Area; and the
2 location of 6 National Wildlife Refuges;

3 (13) the Delaware River supports an inter-
4 nationally renowned cold water fishery in more than
5 80 miles of its northern headwaters that attracts
6 tens of thousands of visitors each year and generates
7 over \$21,000,000 in annual revenue through tourism
8 and recreational activities;

9 (14) management of water volume in the Basin
10 is critical to flood mitigation and habitat for fish
11 and wildlife, and following 3 major floods along the
12 Delaware River since 2004, the Governors of the
13 States of Delaware, New Jersey, New York, and
14 Pennsylvania have called for natural flood damage
15 reduction measures to combat the problem, including
16 restoring the function of riparian corridors;

17 (15) the Delaware River Port Complex (includ-
18 ing docking facilities in the States of Delaware, New
19 Jersey, and Pennsylvania) is one of the largest
20 freshwater ports in the world, the Port of Philadel-
21 phia handles the largest volume of international ton-
22 nage and 70 percent of the oil shipped to the East
23 Coast, and the Port of Wilmington, a full-service
24 deepwater port and marine terminal supporting
25 more than 12,000 jobs, is the busiest terminal on

1 the Delaware River, handling more than 400 vessels
2 per year with an annual import/export cargo tonnage
3 of more than 4,000,000 tons;

4 (16) the Delaware Estuary, where freshwater
5 from the Delaware River mixes with saltwater from
6 the Atlantic Ocean, is one of the largest and most
7 complex of the 28 estuaries in the National Estuary
8 Program, and the Partnership for the Delaware Es-
9 tuary works to improve the environmental health of
10 the Delaware Estuary;

11 (17) the Delaware River Basin Commission is a
12 Federal-interstate compact government agency
13 charged with overseeing a unified approach to man-
14 aging the river system and implementing important
15 water resources management projects and activities
16 throughout the Basin that are in the national inter-
17 est;

18 (18) restoration activities in the Basin are sup-
19 ported through several Federal and State agency
20 programs, and funding for those important pro-
21 grams should continue and complement the estab-
22 lishment of the Delaware River Basin Restoration
23 Program, which is intended to build on and help co-
24 ordinate restoration and protection funding mecha-

1 nisms at the Federal, State, regional, and local lev-
2 els; and

3 (19) the existing and ongoing voluntary con-
4 servation efforts in the Delaware River Basin neces-
5 sitate improved efficiency and cost effectiveness, as
6 well as increased private-sector investments and co-
7 ordination of Federal and non-Federal resources.

8 **SEC. 3502. DEFINITIONS.**

9 In this subtitle:

10 (1) **BASIN.**—The term “Basin” means the 4-
11 State Delaware Basin region, including all of Dela-
12 ware Bay and portions of the States of Delaware,
13 New Jersey, New York, and Pennsylvania located in
14 the Delaware River watershed.

15 (2) **BASIN STATE.**—The term “Basin State”
16 means each of the States of Delaware, New Jersey,
17 New York, and Pennsylvania.

18 (3) **DIRECTOR.**—The term “Director” means
19 the Director of the United States Fish and Wildlife
20 Service.

21 (4) **GRANT PROGRAM.**—The term “grant pro-
22 gram” means the voluntary Delaware River Basin
23 Restoration Grant Program established under sec-
24 tion 3504.

1 (5) PROGRAM.—The term “program” means
2 the nonregulatory Delaware River Basin restoration
3 program established under section 3503.

4 (6) RESTORATION AND PROTECTION.—The
5 term “restoration and protection” means the con-
6 servation, stewardship, and enhancement of habitat
7 for fish and wildlife to preserve and improve eco-
8 systems and ecological processes on which they de-
9 pend, and for use and enjoyment by the public.

10 (7) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior, acting through the Di-
12 rector.

13 (8) SERVICE.—The term “Service” means the
14 United States Fish and Wildlife Service.

15 **SEC. 3503. PROGRAM ESTABLISHMENT.**

16 (a) ESTABLISHMENT.—Not later than 180 days after
17 the date of enactment of this Act, the Secretary shall es-
18 tablish a nonregulatory program to be known as the
19 “Delaware River Basin restoration program”.

20 (b) DUTIES.—In carrying out the program, the Sec-
21 retary shall—

22 (1) draw on existing plans for the Basin, or
23 portions of the Basin, and work in consultation with
24 applicable management entities, including represent-
25 atives of the Partnership for the Delaware Estuary,

1 the Delaware River Basin Commission, the Federal
2 Government, and other State and local governments,
3 and regional organizations, as appropriate, to iden-
4 tify, prioritize, and implement restoration and pro-
5 tection activities within the Basin;

6 (2) adopt a Basinwide strategy that—

7 (A) supports the implementation of a
8 shared set of science-based restoration and pro-
9 tection activities developed in accordance with
10 paragraph (1);

11 (B) targets cost-effective projects with
12 measurable results; and

13 (C) maximizes conservation outcomes with
14 no net gain of Federal full-time equivalent em-
15 ployees; and

16 (3) establish the voluntary grant and technical
17 assistance programs in accordance with section
18 3504.

19 (c) COORDINATION.—In establishing the program,
20 the Secretary shall consult, as appropriate, with—

21 (1) the heads of Federal agencies, including—

22 (A) the Administrator of the Environ-
23 mental Protection Agency;

24 (B) the Administrator of the National Oce-
25 anic and Atmospheric Administration;

1 (C) the Chief of the Natural Resources
2 Conservation Service;

3 (D) the Chief of Engineers; and

4 (E) the head of any other applicable agen-
5 cy;

6 (2) the Governors of the Basin States;

7 (3) the Partnership for the Delaware Estuary;

8 (4) the Delaware River Basin Commission;

9 (5) fish and wildlife joint venture partnerships;

10 and

11 (6) other public agencies and organizations with
12 authority for the planning and implementation of
13 conservation strategies in the Basin.

14 (d) PURPOSES.—The purposes of the program in-
15 clude—

16 (1) coordinating restoration and protection ac-
17 tivities among Federal, State, local, and regional en-
18 tities and conservation partners throughout the
19 Basin; and

20 (2) carrying out coordinated restoration and
21 protection activities, and providing for technical as-
22 sistance throughout the Basin and Basin States—

23 (A) to sustain and enhance fish and wild-
24 life habitat restoration and protection activities;

1 (B) to improve and maintain water quality
2 to support fish and wildlife, as well as the habi-
3 tats of fish and wildlife, and drinking water for
4 people;

5 (C) to sustain and enhance water manage-
6 ment for volume and flood damage mitigation
7 improvements to benefit fish and wildlife habi-
8 tat;

9 (D) to improve opportunities for public ac-
10 cess and recreation in the Basin consistent with
11 the ecological needs of fish and wildlife habitat;

12 (E) to facilitate strategic planning to maxi-
13 mize the resilience of natural systems and habi-
14 tats under changing watershed conditions;

15 (F) to engage the public through outreach,
16 education, and citizen involvement, to increase
17 capacity and support for coordinated restora-
18 tion and protection activities in the Basin;

19 (G) to increase scientific capacity to sup-
20 port the planning, monitoring, and research ac-
21 tivities necessary to carry out coordinated res-
22 toration and protection activities; and

23 (H) to provide technical assistance to carry
24 out restoration and protection activities in the
25 Basin.

1 **SEC. 3504. GRANTS AND ASSISTANCE.**

2 (a) DELAWARE RIVER BASIN RESTORATION GRANT
3 PROGRAM.—To the extent that funds are available to
4 carry out this section, the Secretary shall establish a vol-
5 untary grant and technical assistance program to be
6 known as the “Delaware River Basin Restoration Grant
7 Program” to provide competitive matching grants of vary-
8 ing amounts to State and local governments, nonprofit or-
9 ganizations, institutions of higher education, and other eli-
10 gible entities to carry out activities described in section
11 3503(d).

12 (b) CRITERIA.—The Secretary, in consultation with
13 the organizations described in section 3503(c), shall de-
14 velop criteria for the grant program to help ensure that
15 activities funded under this section accomplish one or
16 more of the purposes identified in section 3503(d)(2) and
17 advance the implementation of priority actions or needs
18 identified in the Basinwide strategy adopted under section
19 3503(b)(2).

20 (c) COST SHARING.—

21 (1) FEDERAL SHARE.—The Federal share of
22 the cost of a project funded under the grant pro-
23 gram shall not exceed 50 percent of the total cost
24 of the activity, as determined by the Secretary.

25 (2) NON-FEDERAL SHARE.—The non-Federal
26 share of the cost of a project funded under the grant

1 program may be provided in cash or in the form of
2 an in-kind contribution of services or materials.

3 **SEC. 3505. ANNUAL LETTER.**

4 Not later than 180 days after the date of enactment
5 of this Act and annually thereafter, the Secretary shall
6 submit to Congress a detailed letter on the implementation
7 of this subtitle, including a description of each project that
8 has received funding under this subtitle.

9 **SEC. 3506. PROHIBITION ON USE OF FUNDS FOR FEDERAL**
10 **ACQUISITION OF INTERESTS IN LAND.**

11 No funds may be appropriated or used under this
12 subtitle for acquisition by the Federal Government of any
13 interest in land.

14 **SEC. 3507. SUNSET.**

15 This subtitle shall have no force or effect after Sep-
16 tember 30, 2023.

17 **Subtitle F—Miscellaneous**
18 **Provisions**

19 **SEC. 3601. BUREAU OF RECLAMATION DAKOTAS AREA OF-**
20 **OFFICE PERMIT FEES FOR CABINS AND TRAIL-**
21 **ERS.**

22 During the period ending 5 years after the date of
23 enactment of this Act, the Secretary of the Interior shall
24 not increase the permit fee for a cabin or trailer on land
25 in the State of North Dakota administered by the Dakotas

1 Area Office of the Bureau of Reclamation by more than
2 33 percent of the permit fee that was in effect on January
3 1, 2016.

4 **SEC. 3602. USE OF TRAILER HOMES AT HEART BUTTE DAM**
5 **AND RESERVOIR (LAKE TSCHIDA).**

6 (a) DEFINITIONS.—In this section:

7 (1) ADDITION.—The term “addition” means
8 any enclosed structure added onto the structure of
9 a trailer home that increases the living area of the
10 trailer home.

11 (2) CAMPER OR RECREATIONAL VEHICLE.—The
12 term “camper or recreational vehicle” includes—

13 (A) a camper, motorhome, trailer camper,
14 bumper hitch camper, fifth wheel camper, or
15 equivalent mobile shelter; and

16 (B) a recreational vehicle.

17 (3) IMMEDIATE FAMILY.—The term “immediate
18 family” means a spouse, grandparent, parent, sib-
19 ling, child, or grandchild.

20 (4) PERMIT.—The term “permit” means a per-
21 mit issued by the Secretary authorizing the use of
22 a lot in a trailer area.

23 (5) PERMIT YEAR.—The term “permit year”
24 means the period beginning on April 1 of a calendar

1 year and ending on March 31 of the following cal-
2 endar year.

3 (6) PERMITTEE.—The term “permittee” means
4 a person holding a permit.

5 (7) SECRETARY.—The term “Secretary” means
6 the Secretary of the Interior, acting through the
7 Commissioner of Reclamation.

8 (8) TRAILER AREA.—The term “trailer area”
9 means any of the following areas at Heart Butte
10 Dam and Reservoir (Lake Tschida) (as described in
11 the document of the Bureau of Reclamation entitled
12 “Heart Butte Reservoir Resource Management
13 Plan” (March 2008)):

14 (A) Trailer Area 1 and 2, also known as
15 Management Unit 034.

16 (B) Southside Trailer Area, also known as
17 Management Unit 014.

18 (9) TRAILER HOME.—The term “trailer home”
19 means a dwelling placed on a supporting frame
20 that—

21 (A) has or had a tow-hitch; and

22 (B) is made mobile, or is capable of being
23 made mobile, by an axle and wheels.

24 (b) PERMIT RENEWAL AND PERMITTED USE.—

1 (1) IN GENERAL.—The Secretary shall use the
2 same permit renewal process for trailer area permits
3 as the Secretary uses for other permit renewals in
4 other reservoirs in the State of North Dakota ad-
5 ministered by the Dakotas Area Office of the Bu-
6 reau of Reclamation.

7 (2) TRAILER HOMES.—With respect to a trailer
8 home, a permit for each permit year shall authorize
9 the permittee—

10 (A) to park the trailer home on the lot;

11 (B) to use the trailer home on the lot;

12 (C) to physically move the trailer home on
13 and off the lot; and

14 (D) to leave on the lot any addition, deck,
15 porch, entryway, step to the trailer home, pro-
16 pane tank, or storage shed.

17 (3) CAMPERS OR RECREATIONAL VEHICLES.—
18 With respect to a camper or recreational vehicle, a
19 permit shall, for each permit year—

20 (A) from April 1 to October 31, authorize
21 the permittee—

22 (i) to park the camper or recreational
23 vehicle on the lot;

24 (ii) to use the camper or recreational
25 vehicle on the lot; and

1 (iii) to move the camper or rec-
2 reational vehicle on and off the lot; and

3 (B) from November 1 to March 31, require
4 a permittee to remove the camper or rec-
5 reational vehicle from the lot.

6 (c) REMOVAL.—

7 (1) IN GENERAL.—The Secretary may require
8 removal of a trailer home from a lot in a trailer area
9 if the trailer home is flooded after the date of enact-
10 ment of this Act.

11 (2) REMOVAL AND NEW USE.—If the Secretary
12 requires removal of a trailer home under paragraph
13 (1), on request by the permittee, the Secretary shall
14 authorize the permittee—

15 (A) to replace the trailer home on the lot
16 with a camper or recreational vehicle in accord-
17 ance with this section; or

18 (B) to place a trailer home on the lot from
19 April 1 to October 31.

20 (d) TRANSFER OF PERMITS.—

21 (1) TRANSFER OF TRAILER HOME TITLE.—If a
22 permittee transfers title to a trailer home permitted
23 on a lot in a trailer area, the Secretary shall issue
24 a permit to the transferee, under the same terms as

1 the permit applicable on the date of transfer, subject
2 to the conditions described in paragraph (3).

3 (2) TRANSFER OF CAMPER OR RECREATIONAL
4 VEHICLE TITLE.—If a permittee who has a permit
5 to use a camper or recreational vehicle on a lot in
6 a trailer area transfers title to the interests of the
7 permittee on or to the lot, the Secretary shall issue
8 a permit to the transferee, subject to the conditions
9 described in paragraph (3).

10 (3) CONDITIONS.—A permit issued by the Sec-
11 retary under paragraph (1) or (2) shall be subject
12 to the following conditions:

13 (A) A permit may not be held in the name
14 of a corporation.

15 (B) A permittee may not have an interest
16 in, or control of, more than 1 seasonal trailer
17 home site in the Great Plains Region of the Bu-
18 reau of Reclamation, inclusive of sites located
19 on tracts permitted to organized groups on Rec-
20 lamation reservoirs.

21 (C) Not more than 2 persons may be per-
22 mittees under 1 permit, unless—

23 (i) approved by the Secretary; or

24 (ii) the additional persons are imme-
25 diate family members of the permittees.

1 (e) ANCHORING REQUIREMENTS FOR TRAILER
2 HOMES.—The Secretary shall require compliance with ap-
3 propriate anchoring requirements for each trailer home
4 (including additions to the trailer home) and other objects
5 on a lot in a trailer area, as determined by the Secretary,
6 after consulting with permittees.

7 (f) REPLACEMENT, REMOVAL, AND RETURN.—

8 (1) REPLACEMENT.—Permittees may replace
9 their trailer home with another trailer home.

10 (2) REMOVAL AND RETURN.—Permittees
11 may—

12 (A) remove their trailer home; and

13 (B) if the permittee removes their trailer
14 home under subparagraph (A), return the trail-
15 er home to the lot of the permittee.

16 (g) LIABILITY; TAKING.—

17 (1) LIABILITY.—The United States shall not be
18 liable for flood damage to the personal property of
19 a permittee or for damages arising out of any act,
20 omission, or occurrence relating to a lot to which a
21 permit applies, other than for damages caused by an
22 act or omission of the United States or an employee,
23 agent, or contractor of the United States before the
24 date of enactment of this Act.

1 (2) TAKING.—Any temporary flooding or flood
2 damage to the personal property of a permittee shall
3 not be a taking by the United States.

4 **SEC. 3603. LAKE TAHOE RESTORATION.**

5 (a) FINDINGS AND PURPOSES.—The Lake Tahoe
6 Restoration Act (Public Law 106–506; 114 Stat. 2351)
7 is amended by striking section 2 and inserting the fol-
8 lowing:

9 **“SEC. 2. FINDINGS AND PURPOSES.**

10 “(a) FINDINGS.—Congress finds that—

11 “(1) Lake Tahoe—

12 “(A) is one of the largest, deepest, and
13 clearest lakes in the world;

14 “(B) has a cobalt blue color, a biologically
15 diverse alpine setting, and remarkable water
16 clarity; and

17 “(C) is recognized nationally and world-
18 wide as a natural resource of special signifi-
19 cance;

20 “(2) in addition to being a scenic and ecological
21 treasure, the Lake Tahoe Basin is one of the out-
22 standing recreational resources of the United States,
23 which—

1 “(A) offers skiing, water sports, biking,
2 camping, and hiking to millions of visitors each
3 year; and

4 “(B) contributes significantly to the econo-
5 mies of California, Nevada, and the United
6 States;

7 “(3) the economy in the Lake Tahoe Basin is
8 dependent on the conservation and restoration of the
9 natural beauty and recreation opportunities in the
10 area;

11 “(4) the ecological health of the Lake Tahoe
12 Basin continues to be challenged by the impacts of
13 land use and transportation patterns developed in
14 the last century;

15 “(5) the alteration of wetland, wet meadows,
16 and stream zone habitat have compromised the ca-
17 pacity of the watershed to filter sediment, nutrients,
18 and pollutants before reaching Lake Tahoe;

19 “(6) forests in the Lake Tahoe Basin suffer
20 from over a century of fire damage and periodic
21 drought, which have resulted in—

22 “(A) high tree density and mortality;

23 “(B) the loss of biological diversity; and

1 “(C) a large quantity of combustible forest
2 fuels, which significantly increases the threat of
3 catastrophic fire and insect infestation;

4 “(7) the establishment of several aquatic and
5 terrestrial invasive species (including perennial
6 pepperweed, milfoil, and Asian clam) threatens the
7 ecosystem of the Lake Tahoe Basin;

8 “(8) there is an ongoing threat to the economy
9 and ecosystem of the Lake Tahoe Basin of the intro-
10 duction and establishment of other invasive species
11 (such as yellow starthistle, New Zealand mud snail,
12 Zebra mussel, and quagga mussel);

13 “(9) 78 percent of the land in the Lake Tahoe
14 Basin is administered by the Federal Government,
15 which makes it a Federal responsibility to restore ec-
16 ological health to the Lake Tahoe Basin;

17 “(10) the Federal Government has a long his-
18 tory of environmental stewardship at Lake Tahoe,
19 including—

20 “(A) congressional consent to the estab-
21 lishment of the Planning Agency with—

22 “(i) the enactment in 1969 of Public
23 Law 91–148 (83 Stat. 360); and

24 “(ii) the enactment in 1980 of Public
25 Law 96–551 (94 Stat. 3233);

1 “(B) the establishment of the Lake Tahoe
2 Basin Management Unit in 1973;

3 “(C) the enactment of Public Law 96–586
4 (94 Stat. 3381) in 1980 to provide for the ac-
5 quisition of environmentally sensitive land and
6 erosion control grants in the Lake Tahoe Basin;

7 “(D) the enactment of sections 341 and
8 342 of the Department of the Interior and Re-
9 lated Agencies Appropriations Act, 2004 (Pub-
10 lic Law 108–108; 117 Stat. 1317), which
11 amended the Southern Nevada Public Land
12 Management Act of 1998 (Public Law 105–
13 263; 112 Stat. 2346) to provide payments for
14 the environmental restoration programs under
15 this Act; and

16 “(E) the enactment of section 382 of the
17 Tax Relief and Health Care Act of 2006 (Pub-
18 lic Law 109–432; 120 Stat. 3045), which
19 amended the Southern Nevada Public Land
20 Management Act of 1998 (Public Law 105–
21 263; 112 Stat. 2346) to authorize development
22 and implementation of a comprehensive 10-year
23 hazardous fuels and fire prevention plan for the
24 Lake Tahoe Basin;

1 “(11) the Assistant Secretary was an original
2 signatory in 1997 to the Agreement of Federal De-
3 partments on Protection of the Environment and
4 Economic Health of the Lake Tahoe Basin;

5 “(12) the Chief of Engineers, under direction
6 from the Assistant Secretary, has continued to be a
7 significant contributor to Lake Tahoe Basin restora-
8 tion, including—

9 “(A) stream and wetland restoration; and

10 “(B) programmatic technical assistance;

11 “(13) at the Lake Tahoe Presidential Forum in
12 1997, the President renewed the commitment of the
13 Federal Government to Lake Tahoe by—

14 “(A) committing to increased Federal re-
15 sources for ecological restoration at Lake
16 Tahoe; and

17 “(B) establishing the Federal Interagency
18 Partnership and Federal Advisory Committee to
19 consult on natural resources issues concerning
20 the Lake Tahoe Basin;

21 “(14) at the 2011 and 2012 Lake Tahoe Fo-
22 rums, Senator Reid, Senator Feinstein, Senator
23 Heller, Senator Ensign, Governor Gibbons, Governor
24 Sandoval, and Governor Brown—

1 “(A) renewed their commitment to Lake
2 Tahoe; and

3 “(B) expressed their desire to fund the
4 Federal and State shares of the Environmental
5 Improvement Program through 2022;

6 “(15) since 1997, the Federal Government, the
7 States of California and Nevada, units of local gov-
8 ernment, and the private sector have contributed
9 more than \$1,955,500,000 to the Lake Tahoe
10 Basin, including—

11 “(A) \$635,400,000 from the Federal Gov-
12 ernment;

13 “(B) \$758,600,000 from the State of Cali-
14 fornia;

15 “(C) \$123,700,000 from the State of Ne-
16 vada;

17 “(D) \$98,900,000 from units of local gov-
18 ernment; and

19 “(E) \$338,900,000 from private interests;

20 “(16) significant additional investment from
21 Federal, State, local, and private sources is nec-
22 essary—

23 “(A) to restore and sustain the ecological
24 health of the Lake Tahoe Basin;

1 “(B) to adapt to the impacts of fluctuating
2 water temperature and precipitation; and

3 “(C) to prevent the introduction and estab-
4 lishment of invasive species in the Lake Tahoe
5 Basin; and

6 “(17) the Secretary has indicated that the Lake
7 Tahoe Basin Management Unit has the capacity for
8 at least \$10,000,000 annually for the Fire Risk Re-
9 duction and Forest Management Program.

10 “(b) PURPOSES.—The purposes of this Act are—

11 “(1) to enable the Chief of the Forest Service,
12 the Director of the United States Fish and Wildlife
13 Service, and the Administrator, in cooperation with
14 the Planning Agency and the States of California
15 and Nevada, to fund, plan, and implement signifi-
16 cant new environmental restoration activities and
17 forest management activities in the Lake Tahoe
18 Basin;

19 “(2) to ensure that Federal, State, local, re-
20 gional, tribal, and private entities continue to work
21 together to manage land in the Lake Tahoe Basin;

22 “(3) to support local governments in efforts re-
23 lated to environmental restoration, stormwater pollu-
24 tion control, fire risk reduction, and forest manage-
25 ment activities; and

1 “(4) to ensure that agency and science commu-
2 nity representatives in the Lake Tahoe Basin work
3 together—

4 “(A) to develop and implement a plan for
5 integrated monitoring, assessment, and applied
6 research to evaluate the effectiveness of the En-
7 vironmental Improvement Program; and

8 “(B) to provide objective information as a
9 basis for ongoing decisionmaking, with an em-
10 phasis on decisionmaking relating to resource
11 management in the Lake Tahoe Basin.”.

12 (b) DEFINITIONS.—The Lake Tahoe Restoration Act
13 (Public Law 106–506; 114 Stat. 2351) is amended by
14 striking section 3 and inserting the following:

15 **“SEC. 3. DEFINITIONS.**

16 “In this Act:

17 “(1) ADMINISTRATOR.—The term ‘Adminis-
18 trator’ means the Administrator of the Environ-
19 mental Protection Agency.

20 “(2) ASSISTANT SECRETARY.—The term ‘As-
21 sistant Secretary’ means the Assistant Secretary of
22 the Army for Civil Works.

23 “(3) CHAIR.—The term ‘Chair’ means the
24 Chair of the Federal Partnership.

1 “(4) COMPACT.—The term ‘Compact’ means
2 the Tahoe Regional Planning Compact included in
3 the first section of Public Law 96–551 (94 Stat.
4 3233).

5 “(5) DIRECTORS.—The term ‘Directors’
6 means—

7 “(A) the Director of the United States
8 Fish and Wildlife Service; and

9 “(B) the Director of the United States Ge-
10 ological Survey.

11 “(6) ENVIRONMENTAL IMPROVEMENT PRO-
12 GRAM.—The term ‘Environmental Improvement Pro-
13 gram’ means—

14 “(A) the Environmental Improvement Pro-
15 gram adopted by the Planning Agency; and

16 “(B) any amendments to the Program.

17 “(7) ENVIRONMENTAL THRESHOLD CARRYING
18 CAPACITY.—The term ‘environmental threshold car-
19 rying capacity’ has the meaning given the term in
20 Article II of the Compact.

21 “(8) FEDERAL PARTNERSHIP.—The term ‘Fed-
22 eral Partnership’ means the Lake Tahoe Federal
23 Interagency Partnership established by Executive
24 Order 13057 (62 Fed. Reg. 41249) (or a successor
25 Executive order).

1 “(9) FOREST MANAGEMENT ACTIVITY.—The
2 term ‘forest management activity’ includes—

3 “(A) prescribed burning for ecosystem
4 health and hazardous fuels reduction;

5 “(B) mechanical and minimum tool treat-
6 ment;

7 “(C) stream environment zone restoration
8 and other watershed and wildlife habitat en-
9 hancements;

10 “(D) nonnative invasive species manage-
11 ment; and

12 “(E) other activities consistent with Forest
13 Service practices, as the Secretary determines
14 to be appropriate.

15 “(10) MAPS.—The term ‘Maps’ means the
16 maps—

17 “(A) entitled—

18 “(i) ‘LTRA USFS–CA Land Ex-
19 change/North Shore’;

20 “(ii) ‘LTRA USFS–CA Land Ex-
21 change/West Shore’; and

22 “(iii) ‘LTRA USFS–CA Land Ex-
23 change/South Shore’; and

1 “(B) dated January 4, 2016, and on file
2 and available for public inspection in the appro-
3 priate offices of—

4 “(i) the Forest Service;

5 “(ii) the California Tahoe Conser-
6 vancy; and

7 “(iii) the California Department of
8 Parks and Recreation.

9 “(11) NATIONAL WILDLAND FIRE CODE.—The
10 term ‘national wildland fire code’ means—

11 “(A) the most recent publication of the
12 National Fire Protection Association codes
13 numbered 1141, 1142, 1143, and 1144;

14 “(B) the most recent publication of the
15 International Wildland-Urban Interface Code of
16 the International Code Council; or

17 “(C) any other code that the Secretary de-
18 termines provides the same, or better, stand-
19 ards for protection against wildland fire as a
20 code described in subparagraph (A) or (B).

21 “(12) PLANNING AGENCY.—The term ‘Planning
22 Agency’ means the Tahoe Regional Planning Agency
23 established under Public Law 91–148 (83 Stat. 360)
24 and Public Law 96–551 (94 Stat. 3233).

1 “(13) PRIORITY LIST.—The term ‘Priority List’
2 means the environmental restoration priority list de-
3 veloped under section 5(b).

4 “(14) SECRETARY.—The term ‘Secretary’
5 means the Secretary of Agriculture, acting through
6 the Chief of the Forest Service.

7 “(15) STREAM ENVIRONMENT ZONE.—The
8 term ‘Stream Environment Zone’ means an area
9 that generally owes the biological and physical char-
10 acteristics of the area to the presence of surface
11 water or groundwater.

12 “(16) TOTAL MAXIMUM DAILY LOAD.—The
13 term ‘total maximum daily load’ means the total
14 maximum daily load allocations adopted under sec-
15 tion 303(d) of the Federal Water Pollution Control
16 Act (33 U.S.C. 1313(d)).

17 “(17) WATERCRAFT.—The term ‘watercraft’
18 means motorized and non-motorized watercraft, in-
19 cluding boats, seaplanes, personal watercraft,
20 kayaks, and canoes.”.

21 (c) IMPROVED ADMINISTRATION OF THE LAKE
22 TAHOE BASIN MANAGEMENT UNIT.—Section 4 of the
23 Lake Tahoe Restoration Act (Public Law 106–506; 114
24 Stat. 2353) is amended—

1 (1) in subsection (b)(3), by striking “basin”
2 and inserting “Basin”; and

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

4 “(c) FOREST MANAGEMENT ACTIVITIES.—

5 “(1) COORDINATION.—

6 “(A) IN GENERAL.—In conducting forest
7 management activities in the Lake Tahoe Basin
8 Management Unit, the Secretary shall, as ap-
9 propriate, coordinate with the Administrator
10 and State and local agencies and organizations,
11 including local fire departments and volunteer
12 groups.

13 “(B) GOALS.—The coordination of activi-
14 ties under subparagraph (A) should aim to in-
15 crease efficiencies and maximize the compat-
16 ibility of management practices across public
17 property boundaries.

18 “(2) MULTIPLE BENEFITS.—

19 “(A) IN GENERAL.—In conducting forest
20 management activities in the Lake Tahoe Basin
21 Management Unit, the Secretary shall conduct
22 the activities in a manner that—

23 “(i) except as provided in subpara-
24 graph (B), attains multiple ecosystem ben-
25 efits, including—

1 “(I) reducing forest fuels;

2 “(II) maintaining biological di-
3 versity;

4 “(III) improving wetland and
5 water quality, including in Stream
6 Environment Zones; and

7 “(IV) increasing resilience to
8 changing water temperature and pre-
9 cipitation; and

10 “(ii) helps achieve and maintain the
11 environmental threshold carrying capacities
12 established by the Planning Agency.

13 “(B) EXCEPTION.—Notwithstanding sub-
14 paragraph (A)(i), the attainment of multiple
15 ecosystem benefits shall not be required if the
16 Secretary determines that management for mul-
17 tiple ecosystem benefits would excessively in-
18 crease the cost of a program in relation to the
19 additional ecosystem benefits gained from the
20 management activity.

21 “(3) GROUND DISTURBANCE.—Consistent with
22 applicable Federal law and Lake Tahoe Basin Man-
23 agement Unit land and resource management plan
24 direction, the Secretary shall—

1 “(A) establish post-program ground condi-
2 tion criteria for ground disturbance caused by
3 forest management activities; and

4 “(B) provide for monitoring to ascertain
5 the attainment of the post-program conditions.

6 “(4) AVAILABILITY OF CATEGORICAL EXCLU-
7 SION FOR CERTAIN FOREST MANAGEMENT
8 PROJECTS.—A forest management activity con-
9 ducted in the Lake Tahoe Basin Management Unit
10 for the purpose of reducing forest fuels is categori-
11 cally excluded from the requirements of the National
12 Environmental Policy Act of 1969 (42 U.S.C. 4321
13 et seq.) if the forest management activity—

14 “(A) notwithstanding section 423 of the
15 Department of the Interior, Environment, and
16 Related Agencies Appropriations Act, 2009 (di-
17 vision E of Public Law 111–8; 123 Stat. 748),
18 does not exceed 10,000 acres, including not
19 more than 3,000 acres of mechanical thinning;

20 “(B) is developed—

21 “(i) in coordination with impacted
22 parties, specifically including representa-
23 tives of local governments, such as county
24 supervisors or county commissioners; and

1 “(ii) in consultation with other inter-
2 ested parties; and

3 “(C) is consistent with the Lake Tahoe
4 Basin Management Unit land and resource
5 management plan.

6 “(d) WITHDRAWAL OF FEDERAL LAND.—

7 “(1) IN GENERAL.—Subject to valid existing
8 rights and paragraph (2), the Federal land located
9 in the Lake Tahoe Basin Management Unit is with-
10 drawn from—

11 “(A) all forms of entry, appropriation, or
12 disposal under the public land laws;

13 “(B) location, entry, and patent under the
14 mining laws; and

15 “(C) disposition under all laws relating to
16 mineral and geothermal leasing.

17 “(2) EXCEPTIONS.—A conveyance of land shall
18 be exempt from withdrawal under this subsection if
19 carried out under—

20 “(A) this Act; or

21 “(B) Public Law 96–586 (94 Stat. 3381)
22 (commonly known as the ‘Santini-Burton Act’).

23 “(e) ENVIRONMENTAL THRESHOLD CARRYING CA-
24 PACITY.—The Lake Tahoe Basin Management Unit shall

1 support the attainment of the environmental threshold
2 carrying capacities.

3 “(f) COOPERATIVE AUTHORITIES.—During the 4 fis-
4 cal years following the date of enactment of the Water
5 Resources Development Act of 2016, the Secretary, in
6 conjunction with land adjustment programs, may enter
7 into contracts and cooperative agreements with States,
8 units of local government, and other public and private
9 entities to provide for fuel reduction, erosion control, re-
10 forestation, Stream Environment Zone restoration, and
11 similar management activities on Federal land and non-
12 Federal land within the programs.”.

13 (d) AUTHORIZED PROGRAMS.—The Lake Tahoe Res-
14 toration Act (Public Law 106–506; 114 Stat. 2351) is
15 amended by striking section 5 and inserting the following:

16 **“SEC. 5. AUTHORIZED PROGRAMS.**

17 “(a) IN GENERAL.—The Secretary, the Assistant
18 Secretary, the Directors, and the Administrator, in coordi-
19 nation with the Planning Agency and the States of Cali-
20 fornia and Nevada, may carry out or provide financial as-
21 sistance to any program that—

22 “(1) is described in subsection (d);

23 “(2) is included in the Priority List under sub-
24 section (b); and

1 “(3) furthers the purposes of the Environ-
2 mental Improvement Program if the program has
3 been subject to environmental review and approval,
4 respectively, as required under Federal law, Article
5 VII of the Compact, and State law, as applicable.

6 “(b) PRIORITY LIST.—

7 “(1) DEADLINE.—Not later than March 15 of
8 the year after the date of enactment of the Water
9 Resources Development Act of 2016, the Chair, in
10 consultation with the Secretary, the Administrator,
11 the Directors, the Planning Agency, the States of
12 California and Nevada, the Federal Partnership, the
13 Washoe Tribe, the Lake Tahoe Federal Advisory
14 Committee, and the Tahoe Science Consortium (or a
15 successor organization) shall submit to Congress a
16 prioritized Environmental Improvement Program list
17 for the Lake Tahoe Basin for the program cat-
18 egories described in subsection (d).

19 “(2) CRITERIA.—The ranking of the Priority
20 List shall be based on the best available science and
21 the following criteria:

22 “(A) The 4-year threshold carrying capac-
23 ity evaluation.

24 “(B) The ability to measure progress or
25 success of the program.

1 “(C) The potential to significantly con-
2 tribute to the achievement and maintenance of
3 the environmental threshold carrying capacities
4 identified in Article II of the Compact.

5 “(D) The ability of a program to provide
6 multiple benefits.

7 “(E) The ability of a program to leverage
8 non-Federal contributions.

9 “(F) Stakeholder support for the program.

10 “(G) The justification of Federal interest.

11 “(H) Agency priority.

12 “(I) Agency capacity.

13 “(J) Cost-effectiveness.

14 “(K) Federal funding history.

15 “(3) REVISIONS.—The Priority List submitted
16 under paragraph (1) shall be revised every 2 years.

17 “(4) FUNDING.—Of the amounts made avail-
18 able under section 10(a), \$80,000,000 shall be made
19 available to the Secretary to carry out projects listed
20 on the Priority List.

21 “(c) RESTRICTION.—The Administrator shall use not
22 more than 3 percent of the funds provided under sub-
23 section (a) for administering the programs described in
24 paragraphs (1) and (2) of subsection (d).

25 “(d) DESCRIPTION OF ACTIVITIES.—

1 “(1) FIRE RISK REDUCTION AND FOREST MAN-
2 AGEMENT.—

3 “(A) IN GENERAL.—Of the amounts made
4 available under section 10(a), \$150,000,000
5 shall be made available to the Secretary to
6 carry out, including by making grants, the fol-
7 lowing programs:

8 “(i) Programs identified as part of the
9 Lake Tahoe Basin Multi-Jurisdictional
10 Fuel Reduction and Wildfire Prevention
11 Strategy 10-Year Plan.

12 “(ii) Competitive grants for fuels work
13 to be awarded by the Secretary to commu-
14 nities that have adopted national wildland
15 fire codes to implement the applicable por-
16 tion of the 10-year plan described in clause
17 (i).

18 “(iii) Biomass programs, including
19 feasibility assessments.

20 “(iv) Angora Fire Restoration under
21 the jurisdiction of the Secretary.

22 “(v) Washoe Tribe programs on tribal
23 lands within the Lake Tahoe Basin.

24 “(vi) Development of an updated
25 Lake Tahoe Basin multijurisdictional fuel

1 reduction and wildfire prevention strategy,
2 consistent with section 4(c).

3 “(vii) Development of updated com-
4 munity wildfire protection plans by local
5 fire districts.

6 “(viii) Municipal water infrastructure
7 that significantly improves the firefighting
8 capability of local government within the
9 Lake Tahoe Basin.

10 “(ix) Stewardship end result con-
11 tracting projects carried out under section
12 604 of the Healthy Forests Restoration
13 Act of 2003 (16 U.S.C. 6591e).

14 “(B) MINIMUM ALLOCATION.—Of the
15 amounts made available to the Secretary to
16 carry out subparagraph (A), at least
17 \$100,000,000 shall be used by the Secretary for
18 programs under subparagraph (A)(i).

19 “(C) PRIORITY.—Units of local govern-
20 ment that have dedicated funding for inspec-
21 tions and enforcement of defensible space regu-
22 lations shall be given priority for amounts pro-
23 vided under this paragraph.

24 “(D) COST-SHARING REQUIREMENTS.—

1 “(i) IN GENERAL.—As a condition on
2 the receipt of funds, communities or local
3 fire districts that receive funds under this
4 paragraph shall provide a 25-percent
5 match.

6 “(ii) FORM OF NON-FEDERAL
7 SHARE.—

8 “(I) IN GENERAL.—The non-
9 Federal share required under clause
10 (i) may be in the form of cash con-
11 tributions or in-kind contributions, in-
12 cluding providing labor, equipment,
13 supplies, space, and other operational
14 needs.

15 “(II) CREDIT FOR CERTAIN
16 DEDICATED FUNDING.—There shall
17 be credited toward the non-Federal
18 share required under clause (i) any
19 dedicated funding of the communities
20 or local fire districts for a fuels reduc-
21 tion management program, defensible
22 space inspections, or dooryard chip-
23 ping.

1 “(III) DOCUMENTATION.—Com-
2 munities and local fire districts
3 shall—

4 “(aa) maintain a record of
5 in-kind contributions that de-
6 scribes—

7 “(AA) the monetary
8 value of the in-kind con-
9 tributions; and

10 “(BB) the manner in
11 which the in-kind contribu-
12 tions assist in accomplishing
13 program goals and objec-
14 tives; and

15 “(bb) document in all re-
16 quests for Federal funding, and
17 include in the total program
18 budget, evidence of the commit-
19 ment to provide the non-Federal
20 share through in-kind contribu-
21 tions.

22 “(2) INVASIVE SPECIES MANAGEMENT.—

23 “(A) IN GENERAL.—Of the amounts made
24 available under section 10(a), \$45,000,000 shall
25 be made available to the Director of the United

1 States Fish and Wildlife Service for the Aquatic
2 Invasive Species Program and the watercraft
3 inspections described in subparagraph (B).

4 “(B) DESCRIPTION OF ACTIVITIES.—The
5 Director of the United States Fish and Wildlife
6 Service, in coordination with the Assistant Sec-
7 retary, the Planning Agency, the California De-
8 partment of Fish and Wildlife, and the Nevada
9 Department of Wildlife, shall deploy strategies
10 consistent with the Lake Tahoe Aquatic
11 Invasive Species Management Plan to prevent
12 the introduction or spread of aquatic invasive
13 species in the Lake Tahoe region.

14 “(C) CRITERIA.—The strategies referred
15 to in subparagraph (B) shall provide that—

16 “(i) combined inspection and decon-
17 tamination stations be established and op-
18 erated at not less than 2 locations in the
19 Lake Tahoe region; and

20 “(ii) watercraft not be allowed to
21 launch in waters of the Lake Tahoe region
22 if the watercraft has not been inspected in
23 accordance with the Lake Tahoe Aquatic
24 Invasive Species Management Plan.

1 “(D) CERTIFICATION.—The Planning
2 Agency may certify State and local agencies to
3 perform the decontamination activities de-
4 scribed in subparagraph (C)(i) at locations out-
5 side the Lake Tahoe Basin if standards at the
6 sites meet or exceed standards for similar sites
7 in the Lake Tahoe Basin established under this
8 paragraph.

9 “(E) APPLICABILITY.—The strategies and
10 criteria developed under this paragraph shall
11 apply to all watercraft to be launched on water
12 within the Lake Tahoe region.

13 “(F) FEES.—The Director of the United
14 States Fish and Wildlife Service may collect
15 and spend fees for decontamination only at a
16 level sufficient to cover the costs of operation of
17 inspection and decontamination stations under
18 this paragraph.

19 “(G) CIVIL PENALTIES.—

20 “(i) IN GENERAL.—Any person that
21 launches, attempts to launch, or facilitates
22 launching of watercraft not in compliance
23 with strategies deployed under this para-
24 graph shall be liable for a civil penalty in

1 an amount not to exceed \$1,000 per viola-
2 tion.

3 “(ii) OTHER AUTHORITIES.—Any pen-
4 alties assessed under this subparagraph
5 shall be separate from penalties assessed
6 under any other authority.

7 “(H) LIMITATION.—The strategies and
8 criteria under subparagraphs (B) and (C), re-
9 spectively, may be modified if the Secretary of
10 the Interior, in a nondelegable capacity and in
11 consultation with the Planning Agency and
12 State governments, issues a determination that
13 alternative measures will be no less effective at
14 preventing introduction of aquatic invasive spe-
15 cies into Lake Tahoe than the strategies and
16 criteria developed under subparagraphs (B) and
17 (C), respectively.

18 “(I) SUPPLEMENTAL AUTHORITY.—The
19 authority under this paragraph is supplemental
20 to all actions taken by non-Federal regulatory
21 authorities.

22 “(J) SAVINGS CLAUSE.—Nothing in this
23 title restricts, affects, or amends any other law
24 or the authority of any department, instrumen-
25 tality, or agency of the United States, or any

1 State or political subdivision thereof, respecting
2 the control of invasive species.

3 “(3) STORMWATER MANAGEMENT, EROSION
4 CONTROL, AND TOTAL WATERSHED RESTORATION.—
5 Of the amounts made available under section 10(a),
6 \$113,000,000 shall be made available—

7 “(A) to the Secretary, the Secretary of the
8 Interior, the Assistant Secretary, or the Admin-
9 istrator for the Federal share of stormwater
10 management and related programs consistent
11 with the adopted Total Maximum Daily Load
12 and near-shore water quality goals;

13 “(B) for grants by the Secretary and the
14 Administrator to carry out the programs de-
15 scribed in subparagraph (A);

16 “(C) to the Secretary or the Assistant Sec-
17 retary for the Federal share of the Upper
18 Truckee River restoration programs and other
19 watershed restoration programs identified in
20 the Priority List established under section 5(b);
21 and

22 “(D) for grants by the Administrator to
23 carry out the programs described in subpara-
24 graph (C).

1 “(4) SPECIAL STATUS SPECIES MANAGE-
2 MENT.—Of the amounts made available under sec-
3 tion 10(a), \$20,000,000 shall be made available to
4 the Director of the United States Fish and Wildlife
5 Service for the Lahontan Cutthroat Trout Recovery
6 Program.”.

7 (e) PROGRAM PERFORMANCE AND ACCOUNT-
8 ABILITY.—The Lake Tahoe Restoration Act (Public Law
9 106–506; 114 Stat. 2351) is amended by striking section
10 6 and inserting the following:

11 **“SEC. 6. PROGRAM PERFORMANCE AND ACCOUNTABILITY.**

12 “(a) PROGRAM PERFORMANCE AND ACCOUNT-
13 ABILITY.—

14 “(1) IN GENERAL.—Of the amounts made
15 available under section 10(a), not less than
16 \$5,000,000 shall be made available to the Secretary
17 to carry out this section.

18 “(2) PLANNING AGENCY.—Of the amounts de-
19 scribed in paragraph (1), not less than 50 percent
20 shall be made available to the Planning Agency to
21 carry out the program oversight and coordination
22 activities established under subsection (d).

23 “(b) CONSULTATION.—In carrying out this Act, the
24 Secretary, the Administrator, and the Directors shall, as
25 appropriate and in a timely manner, consult with the

1 heads of the Washoe Tribe, applicable Federal, State, re-
2 gional, and local governmental agencies, and the Lake
3 Tahoe Federal Advisory Committee.

4 “(c) CORPS OF ENGINEERS; INTERAGENCY AGREE-
5 MENTS.—

6 “(1) IN GENERAL.—The Assistant Secretary
7 may enter into interagency agreements with non-
8 Federal interests in the Lake Tahoe Basin to use
9 Lake Tahoe Partnership-Miscellaneous General In-
10 vestigations funds to provide programmatic technical
11 assistance for the Environmental Improvement Pro-
12 gram.

13 “(2) LOCAL COOPERATION AGREEMENTS.—

14 “(A) IN GENERAL.—Before providing tech-
15 nical assistance under this section, the Assist-
16 ant Secretary shall enter into a local coopera-
17 tion agreement with a non-Federal interest to
18 provide for the technical assistance.

19 “(B) COMPONENTS.—The agreement en-
20 tered into under subparagraph (A) shall—

21 “(i) describe the nature of the tech-
22 nical assistance;

23 “(ii) describe any legal and institu-
24 tional structures necessary to ensure the

1 effective long-term viability of the end
2 products by the non-Federal interest; and

3 “(iii) include cost-sharing provisions
4 in accordance with subparagraph (C).

5 “(C) FEDERAL SHARE.—

6 “(i) IN GENERAL.—The Federal share
7 of program costs under each local coopera-
8 tion agreement under this paragraph shall
9 be 65 percent.

10 “(ii) FORM.—The Federal share may
11 be in the form of reimbursements of pro-
12 gram costs.

13 “(iii) CREDIT.—The non-Federal in-
14 terest may receive credit toward the non-
15 Federal share for the reasonable costs of
16 related technical activities completed by
17 the non-Federal interest before entering
18 into a local cooperation agreement with the
19 Assistant Secretary under this paragraph.

20 “(d) EFFECTIVENESS EVALUATION AND MONI-
21 TORING.—In carrying out this Act, the Secretary, the Ad-
22 ministrator, and the Directors, in coordination with the
23 Planning Agency and the States of California and Nevada,
24 shall—

1 “(1) develop and implement a plan for inte-
2 grated monitoring, assessment, and applied research
3 to evaluate the effectiveness of the Environmental
4 Improvement Program;

5 “(2) include funds in each program funded
6 under this section for monitoring and assessment of
7 results at the program level; and

8 “(3) use the integrated multiagency perform-
9 ance measures established under this section.

10 “(e) REPORTING REQUIREMENTS.—Not later than
11 March 15 of each year, the Secretary, in cooperation with
12 the Chair, the Administrator, the Directors, the Planning
13 Agency, and the States of California and Nevada, con-
14 sistent with subsection (a), shall submit to Congress a re-
15 port that describes—

16 “(1) the status of all Federal, State, local, and
17 private programs authorized under this Act, includ-
18 ing to the maximum extent practicable, for programs
19 that will receive Federal funds under this Act during
20 the current or subsequent fiscal year—

21 “(A) the program scope;

22 “(B) the budget for the program; and

23 “(C) the justification for the program, con-
24 sistent with the criteria established in section
25 5(b)(2);

1 “(2) Federal, State, local, and private expendi-
2 tures in the preceding fiscal year to implement the
3 Environmental Improvement Program;

4 “(3) accomplishments in the preceding fiscal
5 year in implementing this Act in accordance with the
6 performance measures and other monitoring and as-
7 sessment activities; and

8 “(4) public education and outreach efforts un-
9 dertaken to implement programs authorized under
10 this Act.

11 “(f) ANNUAL BUDGET PLAN.—As part of the annual
12 budget of the President, the President shall submit infor-
13 mation regarding each Federal agency involved in the En-
14 vironmental Improvement Program (including the Forest
15 Service, the Environmental Protection Agency, the United
16 States Fish and Wildlife Service, the United States Geo-
17 logical Survey, and the Corps of Engineers), including—

18 “(1) an interagency crosscut budget that dis-
19 plays the proposed budget for use by each Federal
20 agency in carrying out restoration activities relating
21 to the Environmental Improvement Program for the
22 following fiscal year;

23 “(2) a detailed accounting of all amounts re-
24 ceived and obligated by Federal agencies to achieve

1 the goals of the Environmental Improvement Pro-
2 gram during the preceding fiscal year; and

3 “(3) a description of the Federal role in the
4 Environmental Improvement Program, including the
5 specific role of each agency involved in the restora-
6 tion of the Lake Tahoe Basin.”.

7 (f) CONFORMING AMENDMENTS; UPDATES TO RE-
8 LATED LAWS.—

9 (1) LAKE TAHOE RESTORATION ACT.—The
10 Lake Tahoe Restoration Act (Public Law 106–506;
11 114 Stat. 2351) is amended—

12 (A) by striking sections 8 and 9;

13 (B) by redesignating sections 10, 11, and
14 12 as sections 8, 9, and 10, respectively; and

15 (C) in section 9 (as redesignated by sub-
16 paragraph (B)) by inserting “, Director, or Ad-
17 ministrator” after “Secretary”.

18 (2) TAHOE REGIONAL PLANNING COMPACT.—
19 Subsection (c) of Article V of the Tahoe Regional
20 Planning Compact (Public Law 96–551; 94 Stat.
21 3240) is amended in the third sentence by inserting
22 “and, in so doing, shall ensure that the regional plan
23 reflects changing economic conditions and the eco-
24 nomic effect of regulation on commerce” after
25 “maintain the regional plan”.

1 (3) TREATMENT UNDER TITLE 49, UNITED
2 STATES CODE.—Section 5303(r)(2)(C) of title 49,
3 United States Code, is amended—

4 (A) by inserting “and 25 square miles of
5 land area” after “145,000”; and

6 (B) by inserting “and 12 square miles of
7 land area” after “65,000”.

8 (g) AUTHORIZATION OF APPROPRIATIONS.—The
9 Lake Tahoe Restoration Act (Public Law 106–506; 114
10 Stat. 2351) is amended by striking section 10 (as redesign-
11 nated by subsection (f)(1)(B)) and inserting the following:

12 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated to carry out this Act
15 \$415,000,000 for a period of 7 fiscal years beginning the
16 first fiscal year after the date of enactment of the Water
17 Resources Development Act of 2016.

18 “(b) EFFECT ON OTHER FUNDS.—Amounts author-
19 ized under this section and any amendments made by this
20 Act—

21 “(1) shall be in addition to any other amounts
22 made available to the Secretary, the Administrator,
23 or the Directors for expenditure in the Lake Tahoe
24 Basin; and

1 “(2) shall not reduce allocations for other Re-
2 gions of the Forest Service, the Environmental Pro-
3 tection Agency, or the United States Fish and Wild-
4 life Service.

5 “(c) COST-SHARING REQUIREMENT.—Except as pro-
6 vided in subsection (d) and section 5(d)(1)(D), funds for
7 activities carried out under section 5 shall be available for
8 obligation on a 1-to-1 basis with funding of restoration
9 activities in the Lake Tahoe Basin by the States of Cali-
10 fornia and Nevada.

11 “(d) RELOCATION COSTS.—Notwithstanding sub-
12 section (c), the Secretary shall provide to local utility dis-
13 tricts two-thirds of the costs of relocating facilities in con-
14 nection with—

15 “(1) environmental restoration programs under
16 sections 5 and 6; and

17 “(2) erosion control programs under section 2
18 of Public Law 96–586 (94 Stat. 3381).

19 “(e) SIGNAGE.—To the maximum extent practicable,
20 a program provided assistance under this Act shall include
21 appropriate signage at the program site that—

22 “(1) provides information to the public on—

23 “(A) the amount of Federal funds being
24 provided to the program; and

25 “(B) this Act; and

1 “(2) displays the visual identity mark of the
2 Environmental Improvement Program.”.

3 (1) LAND TRANSFERS TO IMPROVE MANAGE-
4 MENT EFFICIENCIES OF FEDERAL AND STATE
5 LAND.—Section 3(b) of Public Law 96–586 (94
6 Stat. 3384) (commonly known as the “Santini-Bur-
7 ton Act”) is amended—

8 (A) by striking “(b) Lands” and inserting
9 the following:

10 “(b) ADMINISTRATION OF ACQUIRED LAND.—

11 “(1) IN GENERAL.—Land”; and

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

13 “(2) CALIFORNIA CONVEYANCES.—

14 “(A) IN GENERAL.—If the State of Cali-
15 fornia (acting through the California Tahoe
16 Conservancy and the California Department of
17 Parks and Recreation) offers to donate to the
18 United States the non-Federal land described in
19 subparagraph (B)(i), the Secretary—

20 “(i) may accept the offer; and

21 “(ii) convey to the State of California,
22 subject to valid existing rights and for no
23 consideration, all right, title, and interest
24 of the United States in and to the Federal
25 land.

1 “(B) DESCRIPTION OF LAND.—

2 “(i) NON-FEDERAL LAND.—The non-
3 Federal land referred to in subparagraph
4 (A) includes—

5 “(I) the approximately 1,936
6 acres of land administered by the
7 California Tahoe Conservancy and
8 identified on the Maps as ‘Tahoe Con-
9 servancy to the USFS’; and

10 “(II) the approximately 183
11 acres of land administered by Cali-
12 fornia State Parks and identified on
13 the Maps as ‘Total USFS to Cali-
14 fornia’.

15 “(ii) FEDERAL LAND.—The Federal
16 land referred to in subparagraph (A) in-
17 cludes the approximately 1,995 acres of
18 Forest Service land identified on the Maps
19 as ‘U.S. Forest Service to Conservancy
20 and State Parks’.

21 “(C) CONDITIONS.—Any land conveyed
22 under this paragraph shall—

23 “(i) be for the purpose of consoli-
24 dating Federal and State ownerships and
25 improving management efficiencies;

1 “(ii) not result in any significant
2 changes in the uses of the land; and

3 “(iii) be subject to the condition that
4 the applicable deed include such terms, re-
5 strictions, covenants, conditions, and res-
6 ervations as the Secretary determines nec-
7 essary—

8 “(I) to ensure compliance with
9 this Act; and

10 “(II) to ensure that the transfer
11 of development rights associated with
12 the conveyed parcels shall not be rec-
13 ognized or available for transfer under
14 chapter 51 of the Code of Ordinances
15 for the Tahoe Regional Planning
16 Agency.

17 “(D) CONTINUATION OF SPECIAL USE
18 PERMITS.—The land conveyance under this
19 paragraph shall be subject to the condition that
20 the State of California accept all special use
21 permits applicable, as of the date of enactment
22 of the Water Resources Development Act of
23 2016, to the land described in subparagraph
24 (B)(ii) for the duration of the special use per-

1 mits, and subject to the terms and conditions of
2 the special use permits.

3 “(3) NEVADA CONVEYANCES.—

4 “(A) IN GENERAL.—In accordance with
5 this section and on request by the Governor of
6 Nevada, the Secretary may transfer the land or
7 interests in land described in subparagraph (B)
8 to the State of Nevada without consideration,
9 subject to appropriate deed restrictions to pro-
10 tect the environmental quality and public rec-
11 reational use of the land transferred.

12 “(B) DESCRIPTION OF LAND.—The land
13 referred to in subparagraph (A) includes—

14 “(i) the approximately 38.68 acres of
15 Forest Service land identified on the map
16 entitled ‘State of Nevada Conveyances’ as
17 ‘Van Sickle Unit USFS Inholding’; and

18 “(ii) the approximately 92.28 acres of
19 Forest Service land identified on the map
20 entitled ‘State of Nevada Conveyances’ as
21 ‘Lake Tahoe Nevada State Park USFS
22 Inholding’.

23 “(C) CONDITIONS.—Any land conveyed
24 under this paragraph shall—

1 “(i) be for the purpose of consoli-
2 dating Federal and State ownerships and
3 improving management efficiencies;

4 “(ii) not result in any significant
5 changes in the uses of the land; and

6 “(iii) be subject to the condition that
7 the applicable deed include such terms, re-
8 strictions, covenants, conditions, and res-
9 ervations as the Secretary determines nec-
10 essary—

11 “(I) to ensure compliance with
12 this Act; and

13 “(II) to ensure that the develop-
14 ment rights associated with the con-
15 veyed parcels shall not be recognized
16 or available for transfer under section
17 90.2 of the Code of Ordinances for
18 the Tahoe Regional Planning Agency.

19 “(D) CONTINUATION OF SPECIAL USE
20 PERMITS.—The land conveyance under this
21 paragraph shall be subject to the condition that
22 the State of Nevada accept all special use per-
23 mits applicable, as of the date of enactment of
24 the Water Resources Development Act of 2016,
25 to the land described in subparagraph (B)(ii)

1 for the duration of the special use permits, and
2 subject to the terms and conditions of the spe-
3 cial use permits.

4 “(4) AUTHORIZATION FOR CONVEYANCE OF
5 FOREST SERVICE URBAN LOTS.—

6 “(A) CONVEYANCE AUTHORITY.—Except
7 in the case of land described in paragraphs (2)
8 and (3), the Secretary of Agriculture may con-
9 vey any urban lot within the Lake Tahoe Basin
10 under the administrative jurisdiction of the
11 Forest Service.

12 “(B) CONSIDERATION.—A conveyance
13 under subparagraph (A) shall require consider-
14 ation in an amount equal to the fair market
15 value of the conveyed lot.

16 “(C) AVAILABILITY AND USE.—The pro-
17 ceeds from a conveyance under subparagraph
18 (A) shall be retained by the Secretary of Agri-
19 culture and used for—

20 “(i) purchasing inholdings throughout
21 the Lake Tahoe Basin; or

22 “(ii) providing additional funds to
23 carry out the Lake Tahoe Restoration Act
24 (Public Law 106–506; 114 Stat. 2351) in

1 excess of amounts made available under
2 section 10 of that Act.

3 “(D) OBLIGATION LIMIT.—The obligation
4 and expenditure of proceeds retained under this
5 paragraph shall be subject to such fiscal year
6 limitation as may be specified in an Act making
7 appropriations for the Forest Service for a fis-
8 cal year.

9 “(5) REVERSION.—If a parcel of land trans-
10 ferred under paragraph (2) or (3) is used in a man-
11 ner that is inconsistent with the use described for
12 the parcel of land in paragraph (2) or (3), respec-
13 tively, the parcel of land, shall, at the discretion of
14 the Secretary, revert to the United States.

15 “(6) FUNDING.—

16 “(A) IN GENERAL.—Of the amounts made
17 available under section 10(a) of the Lake Tahoe
18 Restoration Act (Public Law 106–506; 114
19 Stat. 2351), \$2,000,000 shall be made available
20 to the Secretary to carry out the activities
21 under paragraphs (2), (3), and (4).

22 “(B) OTHER FUNDS.—Of the amounts
23 available to the Secretary under paragraph (1),
24 not less than 50 percent shall be provided to
25 the California Tahoe Conservancy to facilitate

1 the conveyance of land described in paragraphs
2 (2) and (3).”.

3 **SEC. 3604. TUOLUMNE BAND OF ME-WUK INDIANS.**

4 (a) FEDERAL LAND.—Subject to valid existing
5 rights, all right, title, and interest (including improve-
6 ments and appurtenances) of the United States in and to
7 the Federal land described in subsection (b) shall be held
8 in trust by the United States for the benefit of the
9 Tuolumne Band of Me-Wuk Indians for nongaming pur-
10 poses.

11 (b) LAND DESCRIPTION.—The land taken into trust
12 under subsection (a) is the approximately 80 acres of Fed-
13 eral land under the administrative jurisdiction of the
14 United States Forest Service, located in Tuolumne Coun-
15 ty, California, and described as follows:

16 (1) Southwest 1/4 of Southwest 1/4 of Section
17 2, Township 1 North, Range 16 East.

18 (2) Northeast 1/4 of Northwest 1/4 of Section
19 11, Township 1 North, Range 16 East of the Mount
20 Diablo Meridian.

21 (c) GAMING.—Class II and class III gaming (as those
22 terms are defined in section 4 of the Indian Gaming Regu-
23 latory Act (25 U.S.C. 2703)) shall not be permitted at
24 any time on the land taken into trust under subsection
25 (a).

1 **SEC. 3605. SAN LUIS REY SETTLEMENT AGREEMENT IMPLE-**
2 **MENTATION.**

3 (a) SAN LUIS REY SETTLEMENT AGREEMENT IM-
4 PLEMENTATION.—The San Luis Rey Indian Water Rights
5 Settlement Act (Public Law 100–675) is amended by in-
6 serting after section 111 the following:

7 **“SEC. 112. IMPLEMENTATION OF SETTLEMENT.**

8 “(a) FINDINGS.—Congress finds and recognizes as
9 follows:

10 “(1) The City of Escondido, California, the
11 Vista Irrigation District, the San Luis Rey River In-
12 dian Water Authority, and the Bands have approved
13 an agreement, dated December 5, 2014, resolving
14 their disputes over the use of certain land and water
15 rights in or near the San Luis Rey River watershed,
16 the terms of which are consistent with this Act.

17 “(2) The Bands, the San Luis Rey River In-
18 dian Water Authority, the City of Escondido, Cali-
19 fornia, the Vista Irrigation District, and the United
20 States have approved a Settlement Agreement dated
21 January 30, 2015 (hereafter in this section referred
22 to as the ‘Settlement Agreement’) that conforms to
23 the requirements of this Act.

24 “(b) APPROVAL AND RATIFICATION.—All provisions
25 of the Settlement Agreement, including the waivers and
26 releases of the liability of the United States, the provisions

1 regarding allottees, and the provision entitled ‘Effect of
2 Settlement Agreement and Act,’ are hereby approved and
3 ratified.

4 “(c) AUTHORIZATIONS.—The Secretary and the At-
5 torney General are authorized to execute, on behalf of the
6 United States, the Settlement Agreement and any amend-
7 ments approved by the parties as necessary to make the
8 Settlement Agreement consistent with this Act. Such exe-
9 cution shall not constitute a major Federal action under
10 the National Environmental Policy Act of 1969 (42 U.S.C.
11 4321 et seq.). The Secretary is further authorized and di-
12 rected to take all steps that the Secretary may deem nec-
13 essary or appropriate to implement the Settlement Agree-
14 ment and this Act.

15 “(d) CONTINUED FEDERALLY RESERVED AND
16 OTHER WATER RIGHTS.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of law, including any provisions in this
19 Act, the Bands had, have, and continue to possess
20 federally reserved rights and other water rights held
21 in trust by the United States.

22 “(2) FUTURE PROCEEDINGS.—In any pro-
23 ceeding involving the assertion, enforcement, or de-
24 fense of the rights described in this subsection, the
25 United States, in its capacity as trustee for any

1 Band, shall not be a required party and any decision
2 by the United States regarding participation in any
3 such proceeding shall not be subject to judicial re-
4 view or give rise to any claim for relief against the
5 United States.

6 “(e) ALLOTTEES.—Congress finds and confirms that
7 the benefits to allottees in the Settlement Agreement, in-
8 cluding the remedies and provisions requiring that any
9 rights of allottees shall be satisfied from supplemental
10 water and other water available to the Bands or the Indian
11 Water Authority, are equitable and fully satisfy the water
12 rights of the allottees.

13 “(f) NO PRECEDENT.—Nothing in this Act shall be
14 construed or interpreted as a precedent for the litigation
15 or settlement of Indian reserved water rights.”.

16 (b) DISBURSEMENT OF FUNDS.—The second sen-
17 tence of section 105(b)(1) of the San Luis Rey Indian
18 Water Rights Settlement Act (Public Law 100–675) is
19 amended by striking the period at the end, and inserting
20 the following: “, provided that—

21 “(i) no more than \$3,700,000 per
22 year (in principal, interest or both) may be
23 so allocated; and

24 “(ii) none of the funds made available
25 by this section shall be available unless the

1 Director of the Office of Management and
2 Budget first certifies in writing to the
3 Committee on Natural Resources of the
4 House of Representatives and the Com-
5 mittee on Indian Affairs of the Senate that
6 the federal budget will record budgetary
7 outlays from the San Luis Rey Tribal De-
8 velopment Fund of only the monies, not to
9 exceed \$3,700,000 annually, that the Sec-
10 retary of the Treasury, pursuant to this
11 section, allocates and makes available to
12 the Indian Water Authority from the trust
13 fund.”.

14 **SEC. 3606. TULE RIVER INDIAN TRIBE.**

15 (a) IN GENERAL.—Subject to subsection (b), valid,
16 existing rights, and management agreements related to
17 easements and rights-of-way, all right, title, and interest
18 (including improvements and appurtenances) of the
19 United States in and to the approximately 34 acres of
20 Federal lands generally depicted on the map titled “Pro-
21 posed Lands to be Held in Trust for the Tule River Tribe”
22 and dated May 14, 2015, are hereby held in trust by the
23 United States for the benefit of the Tule River Indian
24 Tribe.

1 (b) EASEMENTS AND RIGHTS-OF-WAY.—For the pur-
2 poses of subsection (a), valid, existing rights include any
3 easement or right-of-way for which an application is pend-
4 ing with the Bureau of Land Management on the date
5 of the enactment of this Act. If such application is denied
6 upon final action, the valid, existing right related to the
7 application shall cease to exist.

8 (c) AVAILABILITY OF MAP.—The map referred to in
9 subsection (a) shall be on file and available for public in-
10 spection at the office of the California State Director, Bu-
11 reau of Land Management.

12 (d) CONVERSION OF VALID, EXISTING RIGHTS.—

13 (1) CONTINUITY OF USE.—Any person claiming
14 in good faith to have valid, existing rights to lands
15 taken into trust by this section may continue to ex-
16 ercise such rights to the same extent that the rights
17 were exercised before the date of the enactment of
18 this Act until the Secretary makes a determination
19 on an application submitted under paragraph (2)(B)
20 or the application is deemed to be granted under
21 paragraph (3).

22 (2) NOTICE AND APPLICATION.—Consistent
23 with sections 2800 through 2880 of title 43, Code
24 of Federal Regulations, as soon as practicable after
25 the date of the enactment of this Act, the Secretary

1 of the Interior shall notify any person that claims to
2 have valid, existing rights, such as a management
3 agreement, easement, or other right-of-way, to lands
4 taken into trust under subsection (a) that—

5 (A) such lands have been taken into trust;
6 and

7 (B) the person claiming the valid, existing
8 rights has 60 days to submit an application to
9 the Secretary requesting that the valid, existing
10 rights be converted to a long-term easement or
11 other right-of-way.

12 (3) DETERMINATION.—The Secretary of the In-
13 terior shall grant or deny an application submitted
14 under paragraph (2)(B) not later than 180 days
15 after the application is submitted. Such a determina-
16 tion shall be considered a final action. If the Sec-
17 retary does not make a determination within 180
18 days after the application is submitted, the applica-
19 tion shall be deemed to be granted.

20 (e) RESTRICTION ON GAMING.—Lands taken into
21 trust pursuant to subsection (a) shall not be considered
22 to have been taken into trust for, and shall not be eligible
23 for, class II gaming or class III gaming (as those terms
24 are defined in section 4 of the Indian Gaming Regulatory
25 Act (25 U.S.C. 2703)).

1 **SEC. 3607. MORONGO BAND OF MISSION INDIANS.**

2 (a) DEFINITIONS.—For the purposes of this section,
3 the following definitions apply:

4 (1) BANNING.—The term “Banning” means the
5 City of Banning, which is located in Riverside Coun-
6 ty, California adjacent to the Morongo Indian Res-
7 ervation.

8 (2) FIELDS.—The term “Fields” means Lloyd
9 L. Fields, the owner of record of Parcel A.

10 (3) MAP.—The term “map” means the map en-
11 titled ‘Morongo Indian Reservation, County of River-
12 side, State of California Land Exchange Map’, and
13 dated May 22, 2014, which is on file in the Bureau
14 of Land Management State Office in Sacramento,
15 California.

16 (4) PARCEL A.—The term “Parcel A” means
17 the approximately 41.15 acres designated on the
18 map as “Fields lands”.

19 (5) PARCEL B.—The term “Parcel B” means
20 the approximately 41.15 acres designated on the
21 map as “Morongo lands”.

22 (6) PARCEL C.—The term “Parcel C” means
23 the approximately 1.21 acres designated on the map
24 as “Banning land”.

1 (7) PARCEL D.—The term “Parcel D” means
2 the approximately 1.76 acres designated on the map
3 as “Easement to Banning”.

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

6 (9) TRIBE.—The term “Tribe” means the
7 Morongo Band of Mission Indians, a federally recog-
8 nized Indian tribe.

9 (b) TRANSFER OF LANDS; TRUST LANDS, EASE-
10 MENT.—

11 (1) TRANSFER OF PARCEL A AND PARCEL B
12 AND EASEMENT OVER PARCEL D.—Subject to any
13 valid existing rights of any third parties and to legal
14 review and approval of the form and content of any
15 and all instruments of conveyance and policies of
16 title insurance, upon receipt by the Secretary of con-
17 firmation that Fields has duly executed and depos-
18 ited with a mutually acceptable and jointly in-
19 structed escrow holder in California a deed con-
20 veying clear and unencumbered title to Parcel A to
21 the United States in trust for the exclusive use and
22 benefit of the Tribe, and upon receipt by Fields of
23 confirmation that the Secretary has duly executed
24 and deposited into escrow with the same mutually
25 acceptable and jointly instructed escrow holder a

1 patent conveying clear and unencumbered title in fee
2 simple to Parcel B to Fields and has duly executed
3 and deposited into escrow with the same mutually
4 acceptable and jointly instructed escrow holder an
5 easement to the City for a public right-of-way over
6 Parcel D, the Secretary shall instruct the escrow
7 holder to simultaneously cause—

8 (A) the patent to Parcel B to be recorded
9 and issued to Fields;

10 (B) the easement over Parcel D to be re-
11 corded and issued to the City; and

12 (C) the deed to Parcel A to be delivered to
13 the Secretary, who shall immediately cause said
14 deed to be recorded and held in trust for the
15 Tribe.

16 (2) TRANSFER OF PARCEL C.—After the simul-
17 taneous transfer of parcels A, B, and D under para-
18 graph (1), upon receipt by the Secretary of con-
19 firmation that the City has vacated its interest in
20 Parcel C pursuant to all applicable State and local
21 laws, the Secretary shall immediately cause Parcel C
22 to be held in trust for the Tribe subject to—

23 (A) any valid existing rights of any third
24 parties; and

1 (B) legal review and approval of the form
2 and content of any and all instruments of con-
3 veyance.

4 **SEC. 3608. CHOCTAW NATION OF OKLAHOMA AND THE**
5 **CHICKASAW NATION WATER SETTLEMENT.**

6 (a) PURPOSES.—The purposes of this section are—

7 (1) to permanently resolve and settle those
8 claims to Settlement Area Waters of the Choctaw
9 Nation of Oklahoma and the Chickasaw Nation as
10 set forth in the Settlement Agreement and this sec-
11 tion, including all claims or defenses in and to
12 Chickasaw Nation, Choctaw Nation v. Fallin et al.,
13 CIV 11–927 (W.D. Ok.), OWRB v. United States,
14 et al. CIV 12–275 (W.D. Ok.), or any future stream
15 adjudication;

16 (2) to approve, ratify, and confirm the Settle-
17 ment Agreement;

18 (3) to authorize and direct the Secretary of the
19 Interior to execute the Settlement Agreement and to
20 perform all obligations of the Secretary of the Inte-
21 rior under the Settlement Agreement and this sec-
22 tion;

23 (4) to approve, ratify, and confirm the amended
24 storage contract among the State, the City and the
25 Trust;

1 (5) to authorize and direct the Secretary to ap-
2 prove the amended storage contract for the Corps of
3 Engineers to perform all obligations under the 1974
4 storage contract, the amended storage contract, and
5 this section; and

6 (6) to authorize all actions necessary for the
7 United States to meet its obligations under the Set-
8 tlement Agreement, the amended storage contract,
9 and this section.

10 (b) DEFINITIONS.—In this section:

11 (1) 1974 STORAGE CONTRACT.—The term
12 “1974 storage contract” means the contract ap-
13 proved by the Secretary on April 9, 1974, between
14 the Secretary and the Water Conservation Storage
15 Commission of the State of Oklahoma pursuant to
16 section 301 of the Water Supply Act of 1958, and
17 other applicable Federal law.

18 (2) 2010 AGREEMENT.—The term “2010 agree-
19 ment” means the agreement entered into among the
20 OWRB and the Trust, dated June 15, 2010, relat-
21 ing to the assignment by the State of the 1974 stor-
22 age contract and transfer of rights, title, interests,
23 and obligations under that contract to the Trust, in-
24 cluding the interests of the State in the conservation

1 storage capacity and associated repayment obliga-
2 tions to the United States.

3 (3) ADMINISTRATIVE SET-ASIDE SUB-
4 CONTRACTS.—The term “administrative set-aside
5 subcontracts” means the subcontracts the City shall
6 issue for the use of Conservation Storage Capacity
7 in Sardis Lake as provided by section 4 of the
8 amended storage contract.

9 (4) ALLOTMENT.—The term “allotment” means
10 the land within the Settlement Area held by an allot-
11 tee subject to a statutory restriction on alienation or
12 held by the United States in trust for the benefit of
13 an allottee.

14 (5) ALLOTTEE.—The term “allottee” means an
15 enrolled member of the Choctaw Nation or citizen of
16 the Chickasaw Nation who, or whose estate, holds
17 an interest in an allotment.

18 (6) AMENDED PERMIT APPLICATION.—The
19 term “amended permit application” means the per-
20 mit application of the City to the OWRB, No. 2007–
21 17, as amended as provided by the Settlement
22 Agreement.

23 (7) AMENDED STORAGE CONTRACT TRANSFER
24 AGREEMENT; AMENDED STORAGE CONTRACT.—The
25 terms “amended storage contract transfer agree-

1 ment” and “amended storage contract” mean the
2 2010 Agreement between the City, the Trust, and
3 the OWRB, as amended, as provided by the Settle-
4 ment Agreement and this section.

5 (8) ATOKA AND SARDIS CONSERVATION
6 PROJECTS FUND.—The term “Atoka and Sardis
7 Conservation Projects Fund” means the Atoka and
8 Sardis Conservation Projects Fund established,
9 funded, and managed in accordance with the Settle-
10 ment Agreement.

11 (9) CITY.—The term “City” means the City of
12 Oklahoma City, or the City and the Trust acting
13 jointly, as applicable.

14 (10) CITY PERMIT.—The term “City permit”
15 means any permit issued to the City by the OWRB
16 pursuant to the amended permit application and
17 consistent with the Settlement Agreement.

18 (11) CONSERVATION STORAGE CAPACITY.—The
19 term “conservation storage capacity” means the
20 total storage space as stated in the 1974 storage
21 contract in Sardis Lake between elevations 599.0
22 feet above mean sea level and 542.0 feet above mean
23 sea level, which is estimated to contain 297,200
24 acre-feet of water after adjustment for sediment de-
25 posits, and which may be used for municipal and in-

1 industrial water supply, fish and wildlife, and recre-
2 ation.

3 (12) ENFORCEABILITY DATE.—The term “en-
4 forceability date” means the date on which the Sec-
5 retary of the Interior publishes in the Federal Reg-
6 ister a notice certifying that the conditions of sub-
7 section (i) have been satisfied.

8 (13) FUTURE USE STORAGE.—The term “fu-
9 ture use storage” means that portion of the con-
10 servation storage capacity that was designated by
11 the 1974 Contract to be utilized for future water use
12 storage and was estimated to contain 155,500 acre
13 feet of water after adjustment for sediment deposits,
14 or 52.322 percent of the conservation storage capac-
15 ity.

16 (14) NATIONS.—The term “Nations” means,
17 collectively, the Choctaw Nation of Oklahoma
18 (“Choctaw Nation”) and the Chickasaw Nation.

19 (15) OWRB.—The term “OWRB” means the
20 Oklahoma Water Resources Board.

21 (16) SARDIS LAKE.—The term “Sardis Lake”
22 means the reservoir, formerly known as Clayton
23 Lake, whose dam is located in Section 19, Township
24 2 North, Range 19 East of the Indian Meridian,
25 Pushmataha County, Oklahoma, the construction,

1 operation, and maintenance of which was authorized
2 by section 203 of the Flood Control Act of 1962
3 (Public Law 87–874; 76 Stat. 1187).

4 (17) SETTLEMENT AGREEMENT.—The term
5 “Settlement Agreement” means the settlement
6 agreement as approved by the Nations, the State,
7 the City, and the Trust effective August 22, 2016,
8 as revised to conform with this section, as applica-
9 ble.

10 (18) SETTLEMENT AREA.—The term “settle-
11 ment area” means—

12 (A) the area lying between—

13 (i) the South Canadian River and Ar-
14 kansas River to the north;

15 (ii) the Oklahoma–Texas State line to
16 the south;

17 (iii) the Oklahoma–Arkansas State
18 line to the east; and

19 (iv) the 98th Meridian to the west;
20 and

21 (B) the area depicted in Exhibit 1 to the
22 Settlement Agreement and generally including
23 the following counties, or portions of, in the
24 State:

25 (i) Atoka.

- 1 (ii) Bryan.
- 2 (iii) Carter.
- 3 (iv) Choctaw.
- 4 (v) Coal.
- 5 (vi) Garvin.
- 6 (vii) Grady.
- 7 (viii) McClain.
- 8 (ix) Murray.
- 9 (x) Haskell.
- 10 (xi) Hughes.
- 11 (xii) Jefferson.
- 12 (xiii) Johnston.
- 13 (xiv) Latimer.
- 14 (xv) LeFlore.
- 15 (xvi) Love.
- 16 (xvii) Marshall.
- 17 (xviii) McCurtain.
- 18 (xix) Pittsburgh.
- 19 (xx) Pontotoc.
- 20 (xxi) Pushmataha.
- 21 (xxii) Stephens.

22 (19) SETTLEMENT AREA WATERS.—The term
23 “settlement area waters” means the waters lo-
24 cated—

25 (A) within the settlement area; and

1 (B) within a basin depicted in Exhibit 10
2 to the Settlement Agreement, including any of
3 the following basins as denominated in the
4 2012 Update of the Oklahoma Comprehensive
5 Water Plan:

6 (i) Beaver Creek (24, 25, and 26).

7 (ii) Blue (11 and 12).

8 (iii) Clear Boggy (9).

9 (iv) Kiamichi (5 and 6).

10 (v) Lower Arkansas (46 and 47).

11 (vi) Lower Canadian (48, 56, 57, and

12 58).

13 (vii) Lower Little (2).

14 (viii) Lower Washita (14).

15 (ix) Mountain Fork (4).

16 (x) Middle Washita (15 and 16).

17 (xi) Mud Creek (23).

18 (xii) Muddy Boggy (7 and 8).

19 (xiii) Poteau (44 and 45).

20 (xiv) Red River Mainstem (1, 10, 13,

21 and 21).

22 (xv) Upper Little (3).

23 (xvi) Walnut Bayou (22).

24 (20) STATE.—The term “State” means the

25 State of Oklahoma.

1 (21) TRUST.—

2 (A) IN GENERAL.—The term “Trust”
3 means the Oklahoma City Water Utilities
4 Trust, formerly known as the Oklahoma City
5 Municipal Improvement Authority, a public
6 trust established pursuant to State law with the
7 City as the beneficiary.

8 (B) REFERENCES.—A reference in this
9 section to “Trust” refers to the Oklahoma City
10 Water Utilities Trust, acting severally.

11 (22) UNITED STATES.—The term “United
12 States” means the United States of America acting
13 in its capacity as trustee for the Nations, their re-
14 spective members, citizens, and allottees, or as spe-
15 cifically stated or limited in any given reference
16 herein, in which case it means the United States of
17 America acting in the capacity as set forth in said
18 reference.

19 (c) APPROVAL OF THE SETTLEMENT AGREEMENT.—

20 (1) RATIFICATION.—

21 (A) IN GENERAL.—Except as modified by
22 this section, and to the extent the Settlement
23 Agreement does not conflict with this section,
24 the Settlement Agreement is authorized, rati-
25 fied, and confirmed.

1 (B) AMENDMENTS.—If an amendment is
2 executed to make the Settlement Agreement
3 consistent with this section, the amendment is
4 also authorized, ratified and confirmed to the
5 extent the amendment is consistent with this
6 section.

7 (2) EXECUTION OF SETTLEMENT AGREE-
8 MENT.—

9 (A) IN GENERAL.—To the extent the Set-
10 tlement Agreement does not conflict with this
11 section, the Secretary of the Interior shall
12 promptly execute the Settlement Agreement, in-
13 cluding all exhibits to or parts of the Settlement
14 Agreement requiring the signature of the Sec-
15 retary of the Interior and any amendments nec-
16 essary to make the Settlement Agreement con-
17 sistent with this section.

18 (B) NOT A MAJOR FEDERAL ACTION.—
19 Execution of the Settlement Agreement by the
20 Secretary of the Interior under this subsection
21 shall not constitute a major Federal action
22 under the National Environmental Policy Act of
23 1969 (42 U.S.C. 4321 et seq.).

24 (d) APPROVAL OF THE AMENDED STORAGE CON-
25 TRACT AND 1974 STORAGE CONTRACT.—

1 (1) RATIFICATION.—

2 (A) IN GENERAL.—Except to the extent
3 any provision of the amended storage contract
4 conflicts with any provision of this section, the
5 amended storage contract is authorized, rati-
6 fied, and confirmed.

7 (B) 1974 STORAGE CONTRACT.—To the
8 extent the amended storage contract, as author-
9 ized, ratified, and confirmed, modifies or
10 amends the 1974 storage contract, the modi-
11 fication or amendment to the 1974 storage con-
12 tract is authorized, ratified, and confirmed.

13 (C) AMENDMENTS.—To the extent an
14 amendment is executed to make the amended
15 storage contract consistent with this section,
16 the amendment is authorized, ratified, and con-
17 firmed.

18 (2) APPROVAL BY THE SECRETARY.—After the
19 State and the City execute the amended storage con-
20 tract, the Secretary shall approve the amended stor-
21 age contract.

22 (3) MODIFICATION OF SEPTEMBER 11, 2009,
23 ORDER IN UNITED STATES V. OKLAHOMA WATER RE-
24 SOURCES BOARD, CIV 98–00521 (N.D. OK).—The Sec-
25 retary, through counsel, shall cooperate and work

1 with the State to file any motion and proposed order
2 to modify or amend the order of the United States
3 District Court for the Northern District of Okla-
4 homa dated September 11, 2009, necessary to con-
5 form the order to the amended storage contract
6 transfer agreement, the Settlement Agreement, and
7 this section.

8 (4) CONSERVATION STORAGE CAPACITY.—The
9 allocation of the use of the conservation storage ca-
10 pacity in Sardis Lake for administrative set-aside
11 subcontracts, City water supply, and fish and wild-
12 life and recreation as provided by the amended stor-
13 age contract is authorized, ratified and approved.

14 (5) ACTIVATION; WAIVER.—

15 (A) FINDINGS.—Congress finds that—

16 (i) the earliest possible activation of
17 any increment of future use storage in
18 Sardis Lake will not occur until after
19 2050; and

20 (ii) the obligation to make annual
21 payments for the Sardis future use storage
22 operation, maintenance and replacement
23 costs, capital costs, or interest attributable
24 to Sardis future use storage only arises if,
25 and only to the extent, that an increment

1 of Sardis future use storage is activated by
2 withdrawal or release of water from the fu-
3 ture use storage that is authorized by the
4 user for a consumptive use of water.

5 (B) WAIVER OF OBLIGATIONS FOR STOR-
6 AGE THAT IS NOT ACTIVATED.—Notwith-
7 standing section 301 of the Water Supply Act
8 of 1958 (43 U.S.C. 390b), section 203 of the
9 Flood Control Act of 1962 (Public Law 87-
10 874; 76 Stat. 1187), the 1974 storage contract,
11 or any other provision of law, effective as of
12 January 1, 2050—

13 (i) the entirety of any repayment obli-
14 gations (including interest), relating to
15 that portion of conservation storage capac-
16 ity allocated by the 1974 storage contract
17 to future use storage in Sardis Lake is
18 waived and shall be considered nonreim-
19 bursable; and

20 (ii) any obligation of the State and,
21 on execution and approval of the amended
22 storage contract, of the City and the
23 Trust, under the 1974 storage contract re-
24 garding capital costs and any operation,
25 maintenance, and replacement costs and

1 interest otherwise attributable to future
2 use storage in Sardis Lake is waived and
3 shall be nonreimbursable, if by January 1,
4 2050, the right to future use storage is not
5 activated by the withdrawal or release of
6 water from future use storage for an au-
7 thorized consumptive use of water.

8 (6) CONSISTENT WITH AUTHORIZED PURPOSES;
9 NO MAJOR OPERATIONAL CHANGE.—

10 (A) CONSISTENT WITH AUTHORIZED PUR-
11 POSE.—The amended storage contract, the ap-
12 proval of the Secretary of the amended storage
13 contract, and the waiver of future use storage
14 under paragraph (5)—

15 (i) are deemed consistent with the au-
16 thorized purposes for Sardis Lake as de-
17 scribed in section 203 of the Flood Control
18 Act of 1962 (Public Law 87–874; 76 Stat.
19 1187) and do not affect the authorized
20 purposes for which the project was author-
21 ized, surveyed, planned, and constructed;
22 and

23 (ii) shall not constitute a reallocation
24 of storage.

1 (B) NO MAJOR OPERATIONAL CHANGE.—

2 The amended storage contract, the approval of
3 the Secretary of the amended storage contract,
4 and the waiver of future use storage under
5 paragraph (5) shall not constitute a major oper-
6 ational change under section 301(e) of the
7 Water Supply Act of 1958 (43 U.S.C. 390b(e)).

8 (7) NO FURTHER AUTHORIZATION RE-
9 QUIRED.—This section shall be considered sufficient
10 and complete authorization, without further study or
11 analysis, for—

12 (A) the Secretary to approve the amended
13 storage contract; and

14 (B) after approval under subparagraph
15 (A), the Corps of Engineers to manage storage
16 in Sardis Lake pursuant to and in accordance
17 with the 1974 storage contract, the amended
18 storage contract, and the Settlement Agree-
19 ment.

20 (e) SETTLEMENT AREA WATERS.—

21 (1) FINDINGS.—Congress finds that—

22 (A) pursuant to the Atoka Agreement as
23 ratified by section 29 of the Act of June 28,
24 1898 (30 Stat. 505, chapter 517) (as modified
25 by the Act of July 1, 1902 (32 Stat. 641, chap-

1 ter 1362)), the Nations issued patents to their
2 respective tribal members and citizens and
3 thereby conveyed to individual Choctaws and
4 Chickasaws, all right, title, and interest in and
5 to land that was possessed by the Nations,
6 other than certain mineral rights; and

7 (B) when title passed from the Nations to
8 their respective tribal members and citizens, the
9 Nations did not convey and those individuals
10 did not receive any right of regulatory or sov-
11 ereign authority, including with respect to
12 water.

13 (2) PERMITTING, ALLOCATION, AND ADMINIS-
14 TRATION OF SETTLEMENT AREA WATERS PURSUANT
15 TO THE SETTLEMENT AGREEMENT.—Beginning on
16 the enforceability date, settlement area waters shall
17 be permitted, allocated, and administered by the
18 OWRB in accordance with the Settlement Agree-
19 ment and this section.

20 (3) CHOCTAW NATION AND CHICKASAW NA-
21 TION.—Beginning on the enforceability date, the
22 Nations shall have the right to use and to develop
23 the right to use settlement area waters only in ac-
24 cordance with the Settlement Agreement and this
25 section.

1 (4) WAIVER AND DELEGATION BY NATIONS.—

2 In addition to the waivers under subsection (h), the
3 Nations, on their own behalf, shall permanently dele-
4 gate to the State any regulatory authority each Na-
5 tion may possess over water rights on allotments,
6 which the State shall exercise in accordance with the
7 Settlement Agreement and this subsection.

8 (5) RIGHT TO USE WATER.—

9 (A) IN GENERAL.—An allottee may use
10 water on an allotment in accordance with the
11 Settlement Agreement and this subsection.

12 (B) SURFACE WATER USE.—

13 (i) IN GENERAL.—An allottee may di-
14 vert and use, on the allotment of the allot-
15 tee, 6 acre-feet per year of surface water
16 per 160 acres, to be used solely for domes-
17 tic uses on an allotment that constitutes ri-
18 parian land under applicable State law as
19 of the date of enactment of this Act.

20 (ii) EFFECT OF STATE LAW.—The use
21 of surface water described in clause (i)
22 shall be subject to all rights and protec-
23 tions of State law, as of the date of enact-
24 ment of this Act, including all protections
25 against loss for nonuse.

1 (iii) NO PERMIT REQUIRED.—An al-
2 lottee may divert water under this sub-
3 section without a permit or any other au-
4 thorization from the OWRB.

5 (C) GROUNDWATER USE.—

6 (i) IN GENERAL.—An allottee may
7 drill wells on the allotment of the allottee
8 to take and use for domestic uses the
9 greater of—

10 (I) 5 acre-feet per year; or

11 (II) any greater quantity allowed
12 under State law.

13 (ii) EFFECT OF STATE LAW.—The
14 groundwater use described in clause (i)
15 shall be subject to all rights and protec-
16 tions of State law, as of the date of enact-
17 ment of this Act, including all protections
18 against loss for nonuse.

19 (iii) NO PERMIT REQUIRED.—An al-
20 lottee may drill wells and use water under
21 this subsection without a permit or any
22 other authorization from the OWRB.

23 (D) FUTURE CHANGES IN STATE LAW.—

24 (i) IN GENERAL.—If State law
25 changes to limit use of water to a quantity

1 that is less than the applicable quantity
2 specified in subparagraph (B) or (C), as
3 applicable, an allottee shall retain the right
4 to use water in accord with those subpara-
5 graphs, subject to paragraphs (6)(B)(iv)
6 and (7).

7 (ii) OPPORTUNITY TO BE HEARD.—
8 Prior to taking any action to limit the use
9 of water by an individual, the OWRB shall
10 provide to the individual an opportunity to
11 demonstrate that the individual is—

12 (I) an allottee; and

13 (II) using water on the allotment
14 pursuant to and in accordance with
15 the Settlement Agreement and this
16 section.

17 (6) ALLOTTEE OPTIONS FOR ADDITIONAL
18 WATER.—

19 (A) IN GENERAL.—To use a quantity of
20 water in excess of the quantities provided under
21 paragraph (5), an allottee shall—

22 (i) file an action under subparagraph
23 (B); or

1 (ii) apply to the OWRB for a permit
2 pursuant to, and in accordance with, State
3 law.

4 (B) DETERMINATION IN FEDERAL DIS-
5 TRICT COURT.—

6 (i) IN GENERAL.—In lieu of applying
7 to the OWRB for a permit to use more
8 water than is allowed under paragraph (5),
9 an allottee may file an action in the United
10 States District Court for the Western Dis-
11 trict of Oklahoma for determination of the
12 right to water of the allottee. At least 90
13 days prior to filing such an action, the al-
14 lottee shall provide written notice of the
15 suit to the United States and the OWRB.
16 For the United States, notice shall be pro-
17 vided to the Solicitor's Office, Department
18 of the Interior, Washington D.C., and to
19 the Office of the Regional Director of the
20 Muskogee Region, Bureau of Indian Af-
21 fairs, Department of the Interior.

22 (ii) JURISDICTION.—For purposes of
23 this subsection—

1 (I) the United States District
2 Court for the Western District of
3 Oklahoma shall have jurisdiction; and
4 (II) as part of the complaint, the
5 allottee shall include certification of
6 the pre-filing notice to the United
7 States and OWRB required by sub-
8 paragraph (B)(i). If such certification
9 is not included with the complaint, the
10 complaint will be deemed filed 90 days
11 after such certification is complete
12 and filed with the court. Within 60
13 days after the complaint is filed or
14 deemed filed or within such extended
15 time as the District Court in its dis-
16 cretion may permit, the United States
17 may appear or intervene. After such
18 appearance, intervention or the expi-
19 ration of the said 60 days or any ex-
20 tension thereof, the proceedings and
21 judgment in such action shall bind the
22 United States and the parties thereto
23 without regard to whether the United
24 States elects to appear or intervene in
25 such action.

1 (iii) REQUIREMENTS.—An allottee fil-
2 ing an action pursuant to this subpara-
3 graph shall—

4 (I) join the OWRB as a party;
5 and

6 (II) publish notice in a news-
7 paper of general circulation within the
8 Settlement Area Hydrologic Basin for
9 2 consecutive weeks, with the first
10 publication appearing not later than
11 30 days after the date on which the
12 action is filed.

13 (iv) DETERMINATION FINAL.—

14 (I) IN GENERAL.—Subject to
15 subclause (II), if an allottee elects to
16 have the rights of the allottee deter-
17 mined pursuant to this subparagraph,
18 the determination shall be final as to
19 any rights under Federal law and in
20 lieu of any rights to use water on an
21 allotment as provided in paragraph
22 (5).

23 (II) RESERVATION OF RIGHTS.—
24 Subclause (I) shall not preclude an al-
25 lottee from—

1 (aa) applying to the OWRB
2 for water rights pursuant to
3 State law; or

4 (bb) using any rights al-
5 lowed by State law that do not
6 require a permit from the
7 OWRB.

8 (7) OWRB ADMINISTRATION AND ENFORCE-
9 MENT.—

10 (A) IN GENERAL.—If an allottee exercises
11 any right under paragraph (5) or has rights de-
12 termined under paragraph (6)(B), the OWRB
13 shall have jurisdiction to administer those
14 rights.

15 (B) CHALLENGES.—An allottee may chal-
16 lenge OWRB administration of rights deter-
17 mined under this paragraph, in the United
18 States District Court for the Western District
19 of Oklahoma.

20 (8) PRIOR EXISTING STATE LAW RIGHTS.—
21 Water rights held by an allottee as of the enforce-
22 ability date pursuant to a permit issued by the
23 OWRB shall be governed by the terms of that per-
24 mit and applicable State law (including regulations).

1 (f) CITY PERMIT FOR APPROPRIATION OF STREAM
2 WATER FROM THE KLAMICHI RIVER.—The City permit
3 shall be processed, evaluated, issued, and administered
4 consistent with and in accordance with the Settlement
5 Agreement and this section.

6 (g) SETTLEMENT COMMISSION.—

7 (1) ESTABLISHMENT.—There is established a
8 Settlement Commission.

9 (2) MEMBERS.—

10 (A) IN GENERAL.—The Settlement Com-
11 mission shall be comprised of 5 members, ap-
12 pointed as follows:

13 (i) 1 by the Governor of the State.

14 (ii) 1 by the Attorney General of the
15 State.

16 (iii) 1 by the Chief of the Choctaw
17 Nation.

18 (iv) 1 by the Governor of the Chicka-
19 saw Nation.

20 (v) 1 by agreement of the members
21 described in clauses (i) through (iv).

22 (B) JOINTLY APPOINTED MEMBER.—If the
23 members described in clauses (i) through (iv) of
24 subparagraph (A) do not agree on a member
25 appointed pursuant to subparagraph (A)(v)—

1 (i) the members shall submit to the
2 Chief Judge for the United States District
3 Court for the Eastern District of Okla-
4 homa, a list of not less than 3 persons;
5 and

6 (ii) from the list under clause (i), the
7 Chief Judge shall make the appointment.

8 (C) INITIAL APPOINTMENTS.—The initial
9 appointments to the Settlement Commission
10 shall be made not later than 90 days after the
11 enforceability date.

12 (3) MEMBER TERMS.—

13 (A) IN GENERAL.—Each Settlement Com-
14 mission member shall serve at the pleasure of
15 appointing authority.

16 (B) COMPENSATION.—A member of the
17 Settlement Commission shall serve without
18 compensation, but an appointing authority may
19 reimburse the member appointed by the entity
20 for costs associated with service on the Settle-
21 ment Commission.

22 (C) VACANCIES.—If a member of the Set-
23 tlement Commission is removed or resigns, the
24 appointing authority shall appoint the replace-
25 ment member.

1 (D) JOINTLY APPOINTED MEMBER.—The
2 member of the Settlement Commission de-
3 scribed in paragraph (2)(A)(v) may be removed
4 or replaced by a majority vote of the Settlement
5 Commission based on a failure of the member
6 to carry out the duties of the member.

7 (4) DUTIES.—The duties and authority of the
8 Settlement Commission shall be set forth in the Set-
9 tlement Agreement, and the Settlement Commission
10 shall not possess or exercise any duty or authority
11 not stated in the Settlement Agreement.

12 (h) WAIVERS AND RELEASES OF CLAIMS.—

13 (1) CLAIMS BY THE NATIONS AND THE UNITED
14 STATES AS TRUSTEE FOR THE NATIONS.—Subject to
15 the retention of rights and claims provided in para-
16 graph (3) and except to the extent that rights are
17 recognized in the Settlement Agreement or this sec-
18 tion, the Nations, each in its own right and on be-
19 half of itself and its respective citizens and members
20 (but not individuals in their capacities as allottees),
21 and the United States, acting as a trustee for the
22 Nations (but not individuals in their capacities as
23 allottees), shall execute a waiver and release of—

24 (A) all of the following claims asserted or
25 which could have been asserted in any pro-

1 ceeding filed or that could have been filed dur-
2 ing the period ending on the enforceability date,
3 including Chickasaw Nation, Choctaw Nation v.
4 Fallin et al., CIV 11–927 (W.D. Ok.), OWRB
5 v. United States, et al. CIV 12–275 (W.D.
6 Ok.), or any general stream adjudication, relat-
7 ing to—

8 (i) claims to the ownership of water in
9 the State;

10 (ii) claims to water rights and rights
11 to use water diverted or taken from a loca-
12 tion within the State;

13 (iii) claims to authority over the allo-
14 cation and management of water and ad-
15 ministration of water rights, including au-
16 thority over third-party ownership of or
17 rights to use water diverted or taken from
18 a location within the State and ownership
19 or use of water on allotments by allottees
20 or any other person using water on an al-
21 lotment with the permission of an allottee;

22 (iv) claims that the State lacks au-
23 thority over the allocation and manage-
24 ment of water and administration of water
25 rights, including authority over the owner-

1 ship of or rights to use water diverted or
2 taken from a location within the State;

3 (v) any other claim relating to the
4 ownership of water, regulation of water, or
5 authorized diversion, storage, or use of
6 water diverted or taken from a location
7 within the State, which claim is based on
8 the status of the Chickasaw Nation's or
9 the Choctaw Nation's unique sovereign sta-
10 tus and rights as defined by Federal law
11 and alleged to arise from treaties to which
12 they are signatories, including but not lim-
13 ited to the Treaty of Dancing Rabbit
14 Creek, Act of Sept. 30, 1830, 7 Stat. 333,
15 Treaty of Doaksville, Act of Jan. 17, 1837,
16 11 Stat. 573, and the related March 23,
17 1842, patent to the Choctaw Nation; and

18 (vi) claims or defenses asserted or
19 which could have been asserted in Chicka-
20 saw Nation, *Choctaw Nation v. Fallin et*
21 *al.*, CIV 11-927 (W.D. Ok.), *OWRB v.*
22 *United States, et al.* CIV 12-275 (W.D.
23 Ok.), or any general stream adjudication;

24 (B) all claims for damages, losses or inju-
25 ries to water rights or water, or claims of inter-

1 ference with, diversion, storage, taking, or use
2 of water (including claims for injury to land re-
3 sulting from the damages, losses, injuries, inter-
4 ference with, diversion, storage, taking, or use
5 of water) attributable to any action by the
6 State, the OWRB, or any water user authorized
7 pursuant to State law to take or use water in
8 the State, including the City, that accrued dur-
9 ing the period ending on the enforceability date;

10 (C) all claims and objections relating to
11 the amended permit application, and the City
12 permit, including—

13 (i) all claims regarding regulatory
14 control over or OWRB jurisdiction relating
15 to the permit application and permit; and

16 (ii) all claims for damages, losses or
17 injuries to water rights or rights to use
18 water, or claims of interference with, diver-
19 sion, storage, taking, or use of water (in-
20 cluding claims for injury to land resulting
21 from the damages, losses, injuries, inter-
22 ference with, diversion, storage, taking, or
23 use of water) attributable to the issuance
24 and lawful exercise of the City permit;

1 (D) all claims to regulatory control over
2 the Permit Numbers P80-48 and 54-613 of
3 the City for water rights from the Muddy
4 Boggy River for Atoka Reservoir and P73-
5 282D for water rights from the Muddy Boggy
6 River, including McGee Creek, for the McGee
7 Creek Reservoir;

8 (E) all claims that the State lacks regu-
9 latory authority over or OWRB jurisdiction re-
10 lating to Permit Numbers P80-48 and 54-613
11 for water rights from the Muddy Boggy River
12 for Atoka Reservoir and P73-282D for water
13 rights from the Muddy Boggy River, including
14 McGee Creek, for the McGee Creek Reservoir;

15 (F) all claims to damages, losses or inju-
16 ries to water rights or water, or claims of inter-
17 ference with, diversion, storage, taking, or use
18 of water (including claims for injury to land re-
19 sulting from such damages, losses, injuries, in-
20 terference with, diversion, storage, taking, or
21 use of water) attributable to the lawful exercise
22 of Permit Numbers P80-48 and 54-613 for
23 water rights from the Muddy Boggy River for
24 Atoka Reservoir and P73-282D for water
25 rights from the Muddy Boggy River, including

1 McGee Creek, for the McGee Creek Reservoir,
2 that accrued during the period ending on the
3 enforceability date;

4 (G) all claims and objections relating to
5 the approval by the Secretary of the assignment
6 of the 1974 storage contract pursuant to the
7 amended storage contract; and

8 (H) all claims for damages, losses, or inju-
9 ries to water rights or water, or claims of inter-
10 ference with, diversion, storage, taking, or use
11 of water (including claims for injury to land re-
12 sulting from such damages, losses, injuries, in-
13 terference with, diversion, storage, taking, or
14 use of water) attributable to the lawful exercise
15 of rights pursuant to the amended storage con-
16 tract.

17 (2) WAIVERS AND RELEASES OF CLAIMS BY
18 THE NATIONS AGAINST THE UNITED STATES.—Sub-
19 ject to the retention of rights and claims provided in
20 paragraph (3) and except to the extent that rights
21 are recognized in the Settlement Agreement or this
22 section, the Nations are authorized to execute a
23 waiver and release of all claims against the United
24 States (including any agency or employee of the
25 United States) relating to—

1 (A) all of the following claims asserted or
2 which could have been asserted in any pro-
3 ceeding filed or that could have been filed by
4 the United States as a trustee during the pe-
5 riod ending on the enforceability date, including
6 Chickasaw Nation, Choctaw Nation v. Fallin et
7 al., CIV 11–927 (W.D. Ok.) or OWRB v.
8 United States, et al. CIV 12–275 (W.D. Ok.),
9 or any general stream adjudication, relating
10 to—

11 (i) claims to the ownership of water in
12 the State;

13 (ii) claims to water rights and rights
14 to use water diverted or taken from a loca-
15 tion within the State;

16 (iii) claims to authority over the allo-
17 cation and management of water and ad-
18 ministration of water rights, including au-
19 thority over third-party ownership of or
20 rights to use water diverted or taken from
21 a location within the State and ownership
22 or use of water on allotments by allottees
23 or any other person using water on an al-
24 lotment with the permission of an allottee;

1 (iv) claims that the State lacks au-
2 thority over the allocation and manage-
3 ment of water and administration of water
4 rights, including authority over the owner-
5 ship of or rights to use water diverted or
6 taken from a location within the State;

7 (v) any other claim relating to the
8 ownership of water, regulation of water, or
9 authorized diversion, storage, or use of
10 water diverted or taken from a location
11 within the State, which claim is based on
12 the status of the Chickasaw Nation's or
13 the Choctaw Nation's unique sovereign sta-
14 tus and rights as defined by Federal law
15 and alleged to arise from treaties to which
16 they are signatories, including but not lim-
17 ited to the Treaty of Dancing Rabbit
18 Creek, Act of Sept. 30, 1830, 7 Stat. 333,
19 Treaty of Doaksville, Act of Jan. 17, 1837,
20 11 Stat. 573, and the related March 23,
21 1842, patent to the Choctaw Nation; and

22 (vi) claims or defenses asserted or
23 which could have been asserted in Chicka-
24 saw Nation, Choctaw Nation v. Fallin et
25 al., CIV 11-927 (W.D. Ok.), OWRB v.

1 United States, et al. CIV 12–275 (W.D.
2 Ok.), or any general stream adjudication;

3 (B) all claims for damages, losses or inju-
4 ries to water rights or water, or claims of inter-
5 ference with, diversion, storage, taking, or use
6 of water (including claims for injury to land re-
7 sulting from the damages, losses, injuries, inter-
8 ference with, diversion, storage, taking, or use
9 of water) attributable to any action by the
10 State, the OWRB, or any water user authorized
11 pursuant to State law to take or use water in
12 the State, including the City, that accrued dur-
13 ing the period ending on the enforceability date;

14 (C) all claims and objections relating to
15 the amended permit application, and the City
16 permit, including—

17 (i) all claims regarding regulatory
18 control over or OWRB jurisdiction relating
19 to the permit application and permit; and

20 (ii) all claims for damages, losses or
21 injuries to water rights or rights to use
22 water, or claims of interference with, diver-
23 sion, storage, taking, or use of water (in-
24 cluding claims for injury to land resulting
25 from the damages, losses, injuries, inter-

1 ference with, diversion, storage, taking, or
2 use of water) attributable to the issuance
3 and lawful exercise of the City permit;

4 (D) all claims to regulatory control over
5 the Permit Numbers P80–48 and 54–613 for
6 water rights from the Muddy Boggy River for
7 Atoka Reservoir and P73–282D for water
8 rights from the Muddy Boggy River, including
9 McGee Creek, for the McGee Creek Reservoir;

10 (E) all claims that the State lacks regu-
11 latory authority over or OWRB jurisdiction re-
12 lating to Permit Numbers P80–48 and 54–613
13 for water rights from the Muddy Boggy River
14 for Atoka Reservoir and P73–282D for water
15 rights from the Muddy Boggy River, including
16 McGee Creek, for the McGee Creek Reservoir;

17 (F) all claims to damages, losses or inju-
18 ries to water rights or water, or claims of inter-
19 ference with, diversion, storage, taking, or use
20 of water (including claims for injury to land re-
21 sulting from the damages, losses, injuries, inter-
22 ference with, diversion, storage, taking, or use
23 of water) attributable to the lawful exercise of
24 Permit Numbers P80–48 and 54–613 for water
25 rights from the Muddy Boggy River for Atoka

1 Reservoir and P73–282D for water rights from
2 the Muddy Boggy River, including McGee
3 Creek, for the McGee Creek Reservoir, that ac-
4 crued during the period ending on the enforce-
5 ability date;

6 (G) all claims and objections relating to
7 the approval by the Secretary of the assignment
8 of the 1974 storage contract pursuant to the
9 amended storage contract;

10 (H) all claims relating to litigation brought
11 by the United States prior to the enforceability
12 date of the water rights of the Nations in the
13 State; and

14 (I) all claims relating to the negotiation,
15 execution, or adoption of the Settlement Agree-
16 ment (including exhibits) or this section.

17 (3) RETENTION AND RESERVATION OF CLAIMS
18 BY NATIONS AND THE UNITED STATES.—

19 (A) IN GENERAL.—Notwithstanding the
20 waiver and releases of claims authorized under
21 paragraphs (1) and (2), the Nations and the
22 United States, acting as trustee, shall retain—

23 (i) all claims for enforcement of the
24 Settlement Agreement and this section;

1 (ii) all rights to use and protect any
2 water right of the Nations recognized by or
3 established pursuant to the Settlement
4 Agreement, including the right to assert
5 claims for injuries relating to the rights
6 and the right to participate in any general
7 stream adjudication, including any inter se
8 proceeding;

9 (iii) all claims under—
10 (I) the Comprehensive Environ-
11 mental Response, Compensation, and
12 Liability Act of 1980 (42 U.S.C. 9601
13 et seq.), including for damages to nat-
14 ural resources;

15 (II) the Safe Drinking Water Act
16 (42 U.S.C. 300f et seq.);

17 (III) the Federal Water Pollution
18 Control Act (33 U.S.C. 1251 et seq.);
19 and

20 (IV) any regulations imple-
21 menting the Acts described in items
22 (I) through (III);

23 (iv) all claims relating to damage,
24 loss, or injury resulting from an unauthor-
25 ized diversion, use, or storage of water, in-

1 cluding damages, losses, or injuries to land
2 or nonwater natural resources associated
3 with any hunting, fishing, gathering, or
4 cultural right; and

5 (v) all rights, remedies, privileges, im-
6 munities, and powers not specifically
7 waived and released pursuant to this sec-
8 tion or the Settlement Agreement.

9 (B) AGREEMENT.—

10 (i) IN GENERAL.—As provided in the
11 Settlement Agreement, the Chickasaw Na-
12 tion shall convey an easement to the City,
13 which easement shall be as described and
14 depicted in Exhibit 15 to the Settlement
15 Agreement.

16 (ii) APPLICATION.—The Chickasaw
17 Nation and the City shall cooperate and
18 coordinate on the submission of an applica-
19 tion for approval by the Secretary of the
20 Interior of the conveyance under clause (i),
21 in accordance with applicable Federal law.

22 (iii) RECORDING.—On approval by the
23 Secretary of the Interior of the conveyance
24 of the easement under this clause, the City
25 shall record the easement.

1 (iv) CONSIDERATION.—In exchange
2 for conveyance of the easement under
3 clause (i), the City shall pay to the Chicka-
4 saw Nation the value of past unauthorized
5 use and consideration for future use of the
6 land burdened by the easement, based on
7 an appraisal secured by the City and Na-
8 tions and approved by the Secretary of the
9 Interior.

10 (4) EFFECTIVE DATE OF WAIVER AND RE-
11 LEASES.—The waivers and releases under this sub-
12 section take effect on the enforceability date.

13 (5) TOLLING OF CLAIMS.—Each applicable pe-
14 riod of limitation and time-based equitable defense
15 relating to a claim described in this subsection shall
16 be tolled during the period beginning on the date of
17 enactment of this Act and ending on the earlier of
18 the enforceability date or the expiration date under
19 subsection (i)(2).

20 (i) ENFORCEABILITY DATE.—

21 (1) IN GENERAL.—The Settlement Agreement
22 shall take effect and be enforceable on the date on
23 which the Secretary of the Interior publishes in the
24 Federal Register a certification that—

1 (A) to the extent the Settlement Agree-
2 ment conflicts with this section, the Settlement
3 Agreement has been amended to conform with
4 this section;

5 (B) the Settlement Agreement, as amend-
6 ed, has been executed by the Secretary of the
7 Interior, the Nations, the Governor of the
8 State, the OWRB, the City, and the Trust;

9 (C) to the extent the amended storage con-
10 tract conflicts with this section, the amended
11 storage contract has been amended to conform
12 with this section;

13 (D) the amended storage contract, as
14 amended to conform with this section, has
15 been—

16 (i) executed by the State, the City,
17 and the Trust; and

18 (ii) approved by the Secretary;

19 (E) an order has been entered in United
20 States v. Oklahoma Water Resources Board,
21 Civ. 98–C–521–E with any modifications to the
22 order dated September 11, 2009, as provided in
23 the Settlement Agreement;

24 (F) orders of dismissal have been entered
25 in Chickasaw Nation, Choctaw Nation v. Fallin

1 et al., Civ 11–297 (W.D. Ok.) and OWRB v.
2 United States, et al. Civ 12–275 (W.D. Ok.) as
3 provided in the Settlement Agreement;

4 (G) the OWRB has issued the City Permit;

5 (H) the final documentation of the
6 Kiamichi Basin hydrologic model is on file at
7 the Oklahoma City offices of the OWRB; and

8 (I) the Atoka and Sardis Conservation
9 Projects Fund has been funded as provided in
10 the Settlement Agreement.

11 (2) EXPIRATION DATE.—If the Secretary of the
12 Interior fails to publish a statement of findings
13 under paragraph (1) by not later than September
14 30, 2020, or such alternative later date as is agreed
15 to by the Secretary of the Interior, the Nations, the
16 State, the City, and the Trust under paragraph (4),
17 the following shall apply:

18 (A) This section, except for this subsection
19 and any provisions of this section that are nec-
20 essary to carry out this subsection (but only for
21 purposes of carrying out this subsection) are
22 not effective beginning on September 30, 2020,
23 or the alternative date.

1 (B) The waivers and release of claims, and
2 the limited waivers of sovereign immunity, shall
3 not become effective.

4 (C) The Settlement Agreement shall be
5 null and void, except for this paragraph and
6 any provisions of the Settlement Agreement
7 that are necessary to carry out this paragraph.

8 (D) Except with respect to this paragraph,
9 the State, the Nations, the City, the Trust, and
10 the United States shall not be bound by any ob-
11 ligations or benefit from any rights recognized
12 under the Settlement Agreement.

13 (E) If the City permit has been issued, the
14 permit shall be null and void, except that the
15 City may resubmit to the OWRB, and the
16 OWRB shall be considered to have accepted,
17 OWRB permit application No. 2007–017 with-
18 out having waived the original application pri-
19 ority date and appropriative quantities.

20 (F) If the amended storage contract has
21 been executed or approved, the contract shall be
22 null and void, and the 2010 agreement shall be
23 considered to be in force and effect as between
24 the State and the Trust.

1 (G) If the Atoka and Sardis Conservation
2 Projects Fund has been established and funded,
3 the funds shall be returned to the respective
4 funding parties with any accrued interest.

5 (3) NO PREJUDICE.—The occurrence of the ex-
6 piration date under paragraph (2) shall not in any
7 way prejudice—

8 (A) any argument or suit that the Nations
9 may bring to contest—

10 (i) the pursuit by the City of OWRB
11 permit application No. 2007–017, or a
12 modified version; or

13 (ii) the 2010 agreement;

14 (B) any argument, defense, or suit the
15 State may bring or assert with regard to the
16 claims of the Nations to water or over water in
17 the settlement area; or

18 (C) any argument, defense or suit the City
19 may bring or assert—

20 (i) with regard to the claims of the
21 Nations to water or over water in the set-
22 tlement area relating to OWRB permit ap-
23 plication No. 2007–017, or a modified
24 version; or

25 (ii) to contest the 2010 agreement.

1 (4) EXTENSION.—The expiration date under
2 paragraph (2) may be extended in writing if the Na-
3 tions, the State, the OWRB, the United States, and
4 the City agree that an extension is warranted.

5 (j) JURISDICTION, WAIVERS OF IMMUNITY FOR IN-
6 TERPRETATION AND ENFORCEMENT.—

7 (1) JURISDICTION.—

8 (A) IN GENERAL.—

9 (i) EXCLUSIVE JURISDICTION.—The
10 United States District Court for the West-
11 ern District of Oklahoma shall have exclu-
12 sive jurisdiction for all purposes and for all
13 causes of action relating to the interpreta-
14 tion and enforcement of the Settlement
15 Agreement, the amended storage contract,
16 or interpretation or enforcement of this
17 section, including all actions filed by an al-
18 lottee pursuant to subsection (e)(6)(B).

19 (ii) RIGHT TO BRING ACTION.—The
20 Choctaw Nation, the Chickasaw Nation,
21 the State, the City, the Trust, and the
22 United States shall each have the right to
23 bring an action pursuant to this section.

24 (iii) NO ACTION IN OTHER COURTS.—
25 No action may be brought in any other

1 Federal, Tribal, or State court or adminis-
2 trative forum for any purpose relating to
3 the Settlement Agreement, amended stor-
4 age contract, or this section.

5 (iv) NO MONETARY JUDGMENT.—
6 Nothing in this section authorizes any
7 money judgment or otherwise allows the
8 payment of funds by the United States,
9 the Nations, the State (including the
10 OWRB), the City, or the Trust.

11 (B) NOTICE AND CONFERENCE.—An enti-
12 ty seeking to interpret or enforce the Settle-
13 ment Agreement shall comply with the fol-
14 lowing:

15 (i) Any party asserting noncompliance
16 or seeking interpretation of the Settlement
17 Agreement or this section shall first serve
18 written notice on the party alleged to be in
19 breach of the Settlement Agreement or vio-
20 lation of this section.

21 (ii) The notice under clause (i) shall
22 identify the specific provision of the Settle-
23 ment Agreement or this section alleged to
24 have been violated or in dispute and shall
25 specify in detail the contention of the party

1 asserting the claim and any factual basis
2 for the claim.

3 (iii) Representatives of the party al-
4 leging a breach or violation and the party
5 alleged to be in breach or violation shall
6 meet not later than 30 days after receipt
7 of notice under clause (i) in an effort to re-
8 solve the dispute.

9 (iv) If the matter is not resolved to
10 the satisfaction of the party alleging
11 breach not later than 90 days after the
12 original notice under clause (i), the party
13 may take any appropriate enforcement ac-
14 tion consistent with the Settlement Agree-
15 ment and this subsection.

16 (2) LIMITED WAIVERS OF SOVEREIGN IMMUN-
17 NITY.—

18 (A) IN GENERAL.—The United States and
19 the Nations may be joined in an action filed in
20 the United States District Court for the West-
21 ern District of Oklahoma.

22 (B) UNITED STATES IMMUNITY.—Any
23 claim by the United States to sovereign immu-
24 nity from suit is irrevocably waived for any ac-
25 tion brought by the State, the Chickasaw Na-

1 tion, the Choctaw Nation, the City, or the
2 Trust in the Western District of Oklahoma re-
3 lating to interpretation or enforcement of the
4 Settlement Agreement or this section, including
5 of the appellate jurisdiction of the United
6 States Court of Appeals for the Tenth Circuit
7 and the Supreme Court of the United States.

8 (C) CHICKASAW NATION IMMUNITY.—For
9 the exclusive benefit of the State (including the
10 OWRB), the City, the Trust, the Choctaw Na-
11 tion, and the United States, the sovereign im-
12 munity of the Chickasaw Nation from suit is
13 waived solely for any action brought in the
14 Western District of Oklahoma relating to inter-
15 pretation or enforcement of the Settlement
16 Agreement or this section, if the action is
17 brought by the State or the OWRB, the City,
18 the Trust, the Choctaw Nation, or the United
19 States, including the appellate jurisdiction of
20 the United States Court of Appeals for the
21 Tenth Circuit and the Supreme Court of the
22 United States.

23 (D) CHOCTAW NATION IMMUNITY.—For
24 the exclusive benefit of the State (including of
25 the OWRB), the City, the Trust, the Chickasaw

1 Nation, and the United States, the Choctaw
2 Nation shall expressly and irrevocably consent
3 to a suit and waive sovereign immunity from a
4 suit solely for any action brought in the West-
5 ern District of Oklahoma relating to interpreta-
6 tion or enforcement of the Settlement Agree-
7 ment or this section, if the action is brought by
8 the State, the OWRB, the City, the Trust, the
9 Chickasaw Nation, or the United States, includ-
10 ing the appellate jurisdiction of the United
11 States Court of Appeals for the Tenth Circuit
12 and the Supreme Court of the United States.

13 (k) DISCLAIMER.—

14 (1) IN GENERAL.—The Settlement Agreement
15 applies only to the claims and rights of the Nations.

16 (2) NO PRECEDENT.—Nothing in this section
17 or the Settlement Agreement shall be construed in
18 any way to quantify, establish, or serve as precedent
19 regarding the land and water rights, claims, or enti-
20 tlements to water of any American Indian Tribe
21 other than the Nations, including any other Amer-
22 ican Indian Tribe in the State.

23 (3) LIMITATION.—Nothing in the Settlement
24 Agreement—

1 (A) affects the ability of the United States,
2 acting as sovereign, to take actions authorized
3 by law, including any laws related to health,
4 safety, or the environment, including—

5 (i) the Comprehensive Environmental
6 Response, Compensation, and Liability Act
7 of 1980 (42 U.S.C. 9601 et seq.);

8 (ii) the Safe Drinking Water Act (42
9 U.S.C. 300f et seq.);

10 (iii) the Federal Water Pollution Con-
11 trol Act (33 U.S.C. 1251 et seq.); and

12 (iv) any regulations implementing the
13 Acts described in this section;

14 (B) affects the ability of the United States
15 to raise defenses based on 43 U.S.C. 666(a);
16 and

17 (C) affects any rights, claims, or defenses
18 the United States may have with respect to the
19 use of water on Federal lands in the Settlement
20 Area that are not trust lands or Allotments.

21 **Subtitle G—Blackfeet Water Rights** 22 **Settlement**

23 **SEC. 3701. SHORT TITLE.**

24 This subtitle may be cited as the “Blackfeet Water
25 Rights Settlement Act”.

1 **SEC. 3702. PURPOSES.**

2 The purposes of this subtitle are—

3 (1) to achieve a fair, equitable, and final settle-
4 ment of claims to water rights in the State of Mon-
5 tana for—

6 (A) the Blackfeet Tribe of the Blackfeet
7 Indian Reservation; and

8 (B) the United States, for the benefit of
9 the Tribe and allottees;

10 (2) to authorize, ratify, and confirm the water
11 rights compact entered into by the Tribe and the
12 State, to the extent that the Compact is consistent
13 with this subtitle;

14 (3) to authorize and direct the Secretary of the
15 Interior—

16 (A) to execute the Compact; and

17 (B) to take any other action necessary to
18 carry out the Compact in accordance with this
19 subtitle; and

20 (4) to authorize funds necessary for the imple-
21 mentation of the Compact and this subtitle.

22 **SEC. 3703. DEFINITIONS.**

23 In this subtitle:

24 (1) ALLOTTEE.—The term “allottee” means
25 any individual who holds a beneficial real property
26 interest in an allotment of Indian land that is—

1 (A) located within the Reservation; and

2 (B) held in trust by the United States.

3 (2) BIRCH CREEK AGREEMENT.—The term
4 “Birch Creek Agreement” means—

5 (A) the agreement between the Tribe and
6 the State regarding Birch Creek water use
7 dated January 31, 2008 (as amended on Feb-
8 ruary 13, 2009); and

9 (B) any amendment or exhibit (including
10 exhibit amendments) to that agreement that is
11 executed in accordance with this subtitle.

12 (3) BLACKFEET IRRIGATION PROJECT.—The
13 term “Blackfeet Irrigation Project” means the irri-
14 gation project authorized by the matter under the
15 heading “Montana” of title II of the Act of March
16 1, 1907 (34 Stat. 1035, chapter 2285), and admin-
17 istered by the Bureau of Indian Affairs.

18 (4) COMPACT.—The term “Compact” means—

19 (A) the Blackfeet-Montana water rights
20 compact dated April 15, 2009, as contained in
21 section 85–20–1501 of the Montana Code An-
22 notated (2015); and

23 (B) any amendment or exhibit (including
24 exhibit amendments) to the Compact that is ex-

1 ecuted to make the Compact consistent with
2 this subtitle.

3 (5) ENFORCEABILITY DATE.—The term “en-
4 forceability date” means the date described in sec-
5 tion 3720(f).

6 (6) LAKE ELWELL.—The term “Lake Elwell”
7 means the water impounded on the Marias River in
8 the State by Tiber Dam, a feature of the Lower
9 Marias Unit of the Pick-Sloan Missouri River Basin
10 Program authorized by section 9 of the Act of De-
11 cember 22, 1944 (commonly known as the “Flood
12 Control Act of 1944”) (58 Stat. 891, chapter 665).

13 (7) MILK RIVER BASIN.—The term “Milk River
14 Basin” means the North Fork, Middle Fork, South
15 Fork, and main stem of the Milk River and tribu-
16 taries, from the headwaters to the confluence with
17 the Missouri River.

18 (8) MILK RIVER PROJECT.—

19 (A) IN GENERAL.—The term “Milk River
20 Project” means the Bureau of Reclamation
21 project conditionally approved by the Secretary
22 on March 14, 1903, pursuant to the Act of
23 June 17, 1902 (32 Stat. 388, chapter 1093),
24 commencing at Lake Sherburne Reservoir and

1 providing water to a point approximately 6
2 miles east of Nashua, Montana.

3 (B) INCLUSIONS.—The term “Milk River
4 Project” includes—

5 (i) the St. Mary Unit;

6 (ii) the Fresno Dam and Reservoir;

7 and

8 (iii) the Dodson pumping unit.

9 (9) MILK RIVER PROJECT WATER RIGHTS.—

10 The term “Milk River Project water rights” means
11 the water rights held by the Bureau of Reclamation
12 on behalf of the Milk River Project, as finally adju-
13 dicated by the Montana Water Court.

14 (10) MILK RIVER WATER RIGHT.—The term
15 “Milk River water right” means the portion of the
16 Tribal water rights described in article III.F of the
17 Compact and this subtitle.

18 (11) MISSOURI RIVER BASIN.—The term “Mis-
19 souri River Basin” means the hydrologic basin of
20 the Missouri River (including tributaries).

21 (12) MR&I SYSTEM.—The term “MR&I Sys-
22 tem” means the intake, treatment, pumping, stor-
23 age, pipelines, appurtenant items, and any other fea-
24 ture of the system, as generally described in the doc-
25 ument entitled “Blackfeet Regional Water System”,

1 prepared by DOWL HKM, and dated June 2010,
2 and modified by DOWL HKM, as set out in the ad-
3 dendum to the report dated March 2013.

4 (13) OM&R.—The term “OM&R” means—

5 (A) any recurring or ongoing activity asso-
6 ciated with the day-to-day operation of a
7 project;

8 (B) any activity relating to scheduled or
9 unscheduled maintenance of a project; and

10 (C) any activity relating to replacing a fea-
11 ture of a project.

12 (14) RESERVATION.—The term “Reservation”
13 means the Blackfeet Indian Reservation of Montana,
14 as—

15 (A) established by the Treaty of October
16 17, 1855 (11 Stat. 657); and

17 (B) modified by—

18 (i) the Executive order of July 5,
19 1873 (relating to the Blackfeet Reserve);

20 (ii) the Act of April 15, 1874 (18
21 Stat. 28, chapter 96);

22 (iii) the Executive order of August 19,
23 1874 (relating to the Blackfeet Reserve);

24 (iv) the Executive order of April 13,
25 1875 (relating to the Blackfeet Reserve);

1 (v) the Executive order of July 13,
2 1880 (relating to the Blackfeet Reserve);

3 (vi) the Agreement with the Blackfeet,
4 ratified by the Act of May 1, 1888 (25
5 Stat. 113, chapter 213); and

6 (vii) the Agreement with the Black-
7 feet, ratified by the Act of June 10, 1896
8 (29 Stat. 353, chapter 398).

9 (15) ST. MARY RIVER WATER RIGHT.—The
10 term “St. Mary River water right” means that por-
11 tion of the Tribal water rights described in article
12 III.G.1.a.i. of the Compact and this subtitle.

13 (16) ST. MARY UNIT.—

14 (A) IN GENERAL.—The term “St. Mary
15 Unit” means the St. Mary Storage Unit of the
16 Milk River Project authorized by Congress on
17 March 25, 1905.

18 (B) INCLUSIONS.—The term “St. Mary
19 Unit” includes—

20 (i) Sherburne Dam and Reservoir;

21 (ii) Swift Current Creek Dike;

22 (iii) Lower St. Mary Lake;

23 (iv) St. Mary Canal Diversion Dam;

24 and

1 (v) St. Mary Canal and appur-
2 tenances.

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

5 (18) STATE.—The term “State” means the
6 State of Montana.

7 (19) SWIFTCURRENT CREEK BANK STABILIZA-
8 TION PROJECT.—The term “Swiftcurrent Creek
9 Bank Stabilization Project” means the project to
10 mitigate the physical and environmental problems
11 associated with the St. Mary Unit from Sherburne
12 Dam to the St. Mary River, as described in the re-
13 port entitled “Boulder/Swiftcurrent Creek Stabiliza-
14 tion Project, Phase II Investigations Report”, pre-
15 pared by DOWL HKM, and dated March 2012.

16 (20) TRIBAL WATER RIGHTS.—The term “Trib-
17 al water rights” means the water rights of the Tribe
18 described in article III of the Compact and this sub-
19 title, including—

20 (A) the Lake Elwell allocation provided to
21 the Tribe under section 3709; and

22 (B) the instream flow water rights de-
23 scribed in section 3719.

1 (21) **TRIBE.**—The term “Tribe” means the
2 Blackfeet Tribe of the Blackfeet Indian Reservation
3 of Montana.

4 **SEC. 3704. RATIFICATION OF COMPACT.**

5 (a) **RATIFICATION.**—

6 (1) **IN GENERAL.**—As modified by this subtitle,
7 the Compact is authorized, ratified, and confirmed.

8 (2) **AMENDMENTS.**—Any amendment to the
9 Compact is authorized, ratified, and confirmed, to
10 the extent that such amendment is executed to make
11 the Compact consistent with this subtitle.

12 (b) **EXECUTION.**—

13 (1) **IN GENERAL.**—To the extent that the Com-
14 pact does not conflict with this subtitle, the Sec-
15 retary shall execute the Compact, including all ex-
16 hibits to, or parts of, the Compact requiring the sig-
17 nature of the Secretary.

18 (2) **MODIFICATIONS.**—Nothing in this subtitle
19 precludes the Secretary from approving any modi-
20 fication to an appendix or exhibit to the Compact
21 that is consistent with this subtitle, to the extent
22 that the modification does not otherwise require con-
23 gressional approval under section 2116 of the Re-
24 vised Statutes (25 U.S.C. 177) or any other applica-
25 ble provision of Federal law.

1 (c) ENVIRONMENTAL COMPLIANCE.—

2 (1) IN GENERAL.—In implementing the Com-
3 pact and this subtitle, the Secretary shall comply
4 with all applicable provisions of—

5 (A) the Endangered Species Act of 1973
6 (16 U.S.C. 1531 et seq.);

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

9 (C) all other applicable environmental laws
10 and regulations.

11 (2) EFFECT OF EXECUTION.—

12 (A) IN GENERAL.—The execution of the
13 Compact by the Secretary under this section
14 shall not constitute a major Federal action for
15 purposes of the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.).

17 (B) COMPLIANCE.—The Secretary shall
18 carry out all Federal compliance activities nec-
19 essary to implement the Compact and this sub-
20 title.

21 **SEC. 3705. MILK RIVER WATER RIGHT.**

22 (a) IN GENERAL.—With respect to the Milk River
23 water right, the Tribe—

1 (1) may continue the historical uses and the
2 uses in existence on the date of enactment of this
3 Act; and

4 (2) except as provided in article III.F.1.d of the
5 Compact, shall not develop new uses until the date
6 on which—

7 (A) the Tribe has entered into the agree-
8 ment described in subsection (c); or

9 (B) the Secretary has established the
10 terms and conditions described in subsection
11 (e).

12 (b) WATER RIGHTS ARISING UNDER STATE LAW.—
13 With respect to any water rights arising under State law
14 in the Milk River Basin owned or acquired by the Tribe,
15 the Tribe—

16 (1) may continue any use in existence on the
17 date of enactment of this Act; and

18 (2) shall not change any use until the date on
19 which—

20 (A) the Tribe has entered into the agree-
21 ment described in subsection (c); or

22 (B) the Secretary has established the
23 terms and conditions described in subsection
24 (e).

25 (c) TRIBAL AGREEMENT.—

1 (1) IN GENERAL.—In consultation with the
2 Commissioner of Reclamation and the Director of
3 the Bureau of Indian Affairs, the Tribe and the
4 Fort Belknap Indian Community shall enter into an
5 agreement to provide for the exercise of their respec-
6 tive water rights on the respective reservations of
7 the Tribe and the Fort Belknap Indian Community
8 in the Milk River.

9 (2) CONSIDERATIONS.—The agreement entered
10 into under paragraph (1) shall take into consider-
11 ation—

12 (A) the equal priority dates of the 2 Indian
13 tribes;

14 (B) the water supplies of the Milk River;
15 and

16 (C) historical, current, and future uses
17 identified by each Indian tribe.

18 (d) SECRETARIAL DETERMINATION.—

19 (1) IN GENERAL.—Not later than 120 days
20 after the date on which the agreement described in
21 subsection (c) is submitted to the Secretary, the Sec-
22 retary shall review and approve or disapprove the
23 agreement.

1 (2) APPROVAL.—The Secretary shall approve
2 the agreement if the Secretary finds that the agree-
3 ment—

4 (A) equitably accommodates the interests
5 of each Indian tribe in the Milk River;

6 (B) adequately considers the factors de-
7 scribed in subsection (c)(2); and

8 (C) is otherwise in accordance with appli-
9 cable law.

10 (3) DEADLINE EXTENSION.—The deadline to
11 review the agreement described in paragraph (1)
12 may be extended by the Secretary after consultation
13 with the Tribe and the Fort Belknap Indian Com-
14 munity.

15 (e) SECRETARIAL DECISION.—

16 (1) IN GENERAL.—If the Tribe and the Fort
17 Belknap Indian Community do not, by 3 years after
18 the Secretary certifies under section 3720(f)(5) that
19 the Tribal membership has approved the Compact
20 and this subtitle, enter into an agreement approved
21 under subsection d(2), the Secretary, in the Sec-
22 retary's sole discretion, shall establish, after con-
23 sultation with the Tribe and the Fort Belknap In-
24 dian Community, terms and conditions that reflect
25 the considerations described in subsection (c)(2) by

1 which the respective water rights of the Tribe and
2 the Fort Belknap Indian Community in the Milk
3 River may be exercised.

4 (2) CONSIDERATION AS FINAL AGENCY AC-
5 TION.—The establishment by the Secretary of terms
6 and conditions under paragraph (1) shall be consid-
7 ered to be a final agency action for purposes of re-
8 view under chapter 7 of title 5, United States Code.

9 (3) JUDICIAL REVIEW.—An action for judicial
10 review pursuant to this section shall be brought by
11 not later than the date that is 1 year after the date
12 of notification of the establishment of the terms and
13 conditions under this subsection.

14 (4) INCORPORATION INTO DECREES.—The
15 agreement under subsection (c), or the decision of
16 the Secretary under this subsection, shall be filed
17 with the Montana Water Court, or the district court
18 with jurisdiction, for incorporation into the final de-
19 crees of the Tribe and the Fort Belknap Indian
20 Community.

21 (5) EFFECTIVE DATE.—The agreement under
22 subsection (c) and a decision of the Secretary under
23 this subsection—

24 (A) shall be effective immediately; and

25 (B) may not be modified absent—

1 (i) the approval of the Secretary; and
2 (ii) the consent of the Tribe and the
3 Fort Belknap Indian Community.

4 (f) USE OF FUNDS.—The Secretary shall distribute
5 equally the funds made available under section
6 3718(a)(2)(C)(ii) to the Tribe and the Fort Belknap In-
7 dian Community to use to reach an agreement under this
8 section, including for technical analyses and legal and
9 other related efforts.

10 **SEC. 3706. WATER DELIVERY THROUGH MILK RIVER**
11 **PROJECT.**

12 (a) IN GENERAL.—Subject to the availability of ap-
13 propriations, the Secretary, acting through the Commis-
14 sioner of Reclamation, shall carry out the activities au-
15 thorized under this section with respect to the St. Mary
16 River water right.

17 (b) TREATMENT.—Notwithstanding article IV.D.4 of
18 the Compact, any responsibility of the United States with
19 respect to the St. Mary River water right shall be limited
20 to, and fulfilled pursuant to—

21 (1) subsection (c) of this section; and

22 (2) subsection (b)(3) of section 3716 and sub-
23 section (a)(1)(C) of section 3718.

24 (c) WATER DELIVERY CONTRACT.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the enforceability date, the Secretary shall
3 enter into a water delivery contract with the Tribe
4 for the delivery of not greater than 5,000 acre-feet
5 per year of the St. Mary River water right through
6 Milk River Project facilities to the Tribe or another
7 entity specified by the Tribe.

8 (2) TERMS AND CONDITIONS.—The contract
9 under paragraph (1) shall establish the terms and
10 conditions for the water deliveries described in para-
11 graph (1) in accordance with the Compact and this
12 subtitle.

13 (3) REQUIREMENTS.—The water delivery con-
14 tract under paragraph (1) shall include provisions
15 requiring that—

16 (A) the contract shall be without limit as
17 to term;

18 (B) the Tribe, and not the United States,
19 shall collect, and shall be entitled to, all consid-
20 eration due to the Tribe under any lease, con-
21 tract, or agreement entered into by the Tribe
22 pursuant to subsection (f);

23 (C) the United States shall have no obliga-
24 tion to monitor, administer, or account for—

1 (i) any funds received by the Tribe as
2 consideration under any lease, contract, or
3 agreement entered into by the Tribe pursu-
4 ant to subsection (f); or

5 (ii) the expenditure of such funds;

6 (D) if water deliveries under the contract
7 are interrupted for an extended period of time
8 because of damage to, or a reduction in the ca-
9 pacity of, St. Mary Unit facilities, the rights of
10 the Tribe shall be treated in the same manner
11 as the rights of other contractors receiving
12 water deliveries through the Milk River Project
13 with respect to the water delivered under this
14 section;

15 (E) deliveries of water under this section
16 shall be—

17 (i) limited to not greater than 5,000
18 acre-feet of water in any 1 year;

19 (ii) consistent with operations of the
20 Milk River Project and without additional
21 costs to the Bureau of Reclamation, in-
22 cluding OM&R costs; and

23 (iii) without additional cost to the
24 Milk River Project water users; and

1 (F) the Tribe shall be required to pay
2 OM&R for water delivered under this section.

3 (d) SHORTAGE SHARING OR REDUCTION.—

4 (1) IN GENERAL.—The 5,000 acre-feet per year
5 of water delivered under paragraph (3)(E)(i) of sub-
6 section (c) shall not be subject to shortage sharing
7 or reduction, except as provided in paragraph (3)(D)
8 of that subsection.

9 (2) NO INJURY TO MILK RIVER PROJECT
10 WATER USERS.—Notwithstanding article IV.D.4 of
11 the Compact, any reduction in the Milk River
12 Project water supply caused by the delivery of water
13 under subsection (c) shall not constitute injury to
14 Milk River Project water users.

15 (e) SUBSEQUENT CONTRACTS.—

16 (1) IN GENERAL.—As part of the studies au-
17 thorized by section 3707(c)(1), the Secretary, acting
18 through the Commissioner of Reclamation, and in
19 cooperation with the Tribe, shall identify alternatives
20 to provide to the Tribe water from the St. Mary
21 River water right in quantities greater than the
22 5,000 acre-feet per year of water described in sub-
23 section (c)(3)(E)(i).

24 (2) CONTRACT FOR WATER DELIVERY.—If the
25 Secretary determines under paragraph (1) that more

1 than 5,000 acre-feet per year of the St. Mary River
2 water right can be delivered to the Tribe, the Sec-
3 retary shall offer to enter into 1 or more contracts
4 with the Tribe for the delivery of that water, subject
5 to the requirements of subsection (c)(3) (except sub-
6 section (c)(3)(E)(i)) and this subsection.

7 (3) TREATMENT.—Any delivery of water under
8 this subsection shall be subject to reduction in the
9 same manner as for Milk River Project contract
10 holders.

11 (f) SUBCONTRACTS.—

12 (1) IN GENERAL.—The Tribe may enter into
13 any subcontract for the delivery of water under this
14 section to a third party, in accordance with section
15 3715(e).

16 (2) COMPLIANCE WITH OTHER LAW.—All sub-
17 contracts described in paragraph (1) shall comply
18 with—

19 (A) this subtitle;

20 (B) the Compact;

21 (C) the tribal water code; and

22 (D) other applicable law.

23 (3) NO LIABILITY.—The Secretary shall not be
24 liable to any party, including the Tribe, for any term
25 of, or any loss or other detriment resulting from, a

1 lease, contract, or other agreement entered into pur-
2 suant to this subsection.

3 (g) EFFECT OF PROVISIONS.—Nothing in this sec-
4 tion—

5 (1) precludes the Tribe from taking the water
6 described in subsection (c)(3)(E)(i), or any addi-
7 tional water provided under subsection (e), from the
8 direct flow of the St. Mary River; or

9 (2) modifies the quantity of the Tribal water
10 rights described in article III.G.1. of the Compact.

11 (h) OTHER RIGHTS.—Notwithstanding the require-
12 ments of article III.G.1.d of the Compact, after satisfac-
13 tion of all water rights under State law for use of St. Mary
14 River water, including the Milk River Project water rights,
15 the Tribe shall have the right to the remaining portion
16 of the share of the United States in the St. Mary River
17 under the International Boundary Waters Treaty of 1909
18 (36 Stat. 2448) for any tribally authorized use or need
19 consistent with this subtitle.

20 **SEC. 3707. BUREAU OF RECLAMATION ACTIVITIES TO IM-**
21 **PROVE WATER MANAGEMENT.**

22 (a) MILK RIVER PROJECT PURPOSES.—The pur-
23 poses of the Milk River Project shall include—

24 (1) irrigation;

25 (2) flood control;

1 (3) the protection of fish and wildlife;

2 (4) recreation;

3 (5) the provision of municipal, rural, and indus-
4 trial water supply; and

5 (6) hydroelectric power generation.

6 (b) USE OF MILK RIVER PROJECT FACILITIES FOR
7 THE BENEFIT OF TRIBE.—The use of Milk River Project
8 facilities to transport water for the Tribe pursuant to sub-
9 sections (c) and (e) of section 3706, together with any use
10 by the Tribe of that water in accordance with this sub-
11 title—

12 (1) shall be considered to be an authorized pur-
13 pose of the Milk River Project; and

14 (2) shall not change the priority date of any
15 Tribal water rights.

16 (c) ST. MARY RIVER STUDIES.—

17 (1) IN GENERAL.—Subject to the availability of
18 appropriations, the Secretary, in cooperation with
19 the Tribe and the State, shall conduct—

20 (A) an appraisal study—

21 (i) to develop a plan for the manage-
22 ment and development of water supplies in
23 the St. Mary River Basin and Milk River
24 Basin, including the St. Mary River and
25 Milk River water supplies for the Tribe

1 and the Milk River water supplies for the
2 Fort Belknap Indian Community; and

3 (ii) to identify alternatives to develop
4 additional water of the St. Mary River for
5 the Tribe; and

6 (B) a feasibility study—

7 (i) using the information resulting
8 from the appraisal study conducted under
9 subparagraph (A) and such other informa-
10 tion as is relevant, to evaluate the feasi-
11 bility of—

12 (I) alternatives for the rehabilita-
13 tion of the St. Mary Diversion Dam
14 and Canal; and

15 (II) increased storage in Fresno
16 Dam and Reservoir; and

17 (ii) to create a cost allocation study
18 that is based on the authorized purposes
19 described in subsections (a) and (b).

20 (2) COOPERATIVE AGREEMENT.—On request of
21 the Tribe, the Secretary shall enter into a coopera-
22 tive agreement with the Tribe with respect to the
23 portion of the appraisal study described in para-
24 graph (1)(A).

1 (3) COSTS NONREIMBURSABLE.—The cost of
2 the studies under this subsection shall not be—

3 (A) considered to be a cost of the Milk
4 River Project; or

5 (B) reimbursable in accordance with the
6 reclamation laws.

7 (d) SWIFTCURRENT CREEK BANK STABILIZATION.—

8 (1) IN GENERAL.—Subject to the availability of
9 appropriations, the Secretary, acting through the
10 Commissioner of Reclamation, shall carry out appro-
11 priate activities concerning the Swiftcurrent Creek
12 Bank Stabilization Project, including—

13 (A) a review of the final project design;
14 and

15 (B) value engineering analyses.

16 (2) MODIFICATION OF FINAL DESIGN.—Prior to
17 beginning construction activities for the Swiftcurrent
18 Creek Bank Stabilization Project, on the basis of the
19 review conducted under paragraph (1), the Secretary
20 shall negotiate with the Tribe appropriate changes,
21 if any, to the final design—

22 (A) to ensure compliance with applicable
23 industry standards;

1 (B) to improve the cost-effectiveness of the
2 Swiftcurrent Creek Bank Stabilization Project;
3 and

4 (C) to ensure that the Swiftcurrent Creek
5 Bank Stabilization Project may be constructed
6 using only the amounts made available under
7 section 3718.

8 (3) APPLICABILITY OF ISDEAA.—At the request
9 of the Tribe, and in accordance with the Indian Self-
10 Determination and Education Assistance Act (25
11 U.S.C. 5301 et seq.), the Secretary shall enter into
12 1 or more agreements with the Tribe to carry out
13 the Swiftcurrent Bank Stabilization Project.

14 (e) ADMINISTRATION.—The Commissioner of Rec-
15 lamation and the Tribe shall negotiate the cost of any
16 oversight activity carried out by the Bureau of Reclama-
17 tion under any agreement entered into under this section,
18 subject to the condition that the total cost for the over-
19 sight shall not exceed 4 percent of the total costs incurred
20 under this section.

21 (f) MILK RIVER PROJECT RIGHTS-OF-WAY AND
22 EASEMENTS.—

23 (1) IN GENERAL.—Subject to paragraphs (2)
24 and (3), the Tribe shall grant the United States a
25 right-of-way on Reservation land owned by the Tribe

1 for all uses by the Milk River Project (permissive or
2 otherwise) in existence as of December 31, 2015, in-
3 cluding all facilities, flowage easements, and access
4 easements necessary for the operation and mainte-
5 nance of the Milk River Project.

6 (2) AGREEMENT REGARDING EXISTING USES.—

7 The Tribe and the Secretary shall enter into an
8 agreement for a process to determine the location,
9 nature, and extent of the existing uses referenced in
10 this subsection. The agreement shall require that—

11 (A) a panel of three individuals determine
12 the location, nature, and extent of existing uses
13 necessary for the operation and maintenance of
14 the Milk River Project (the “Panel Determina-
15 tion”), with the Tribe appointing one represent-
16 ative of the Tribe, the Secretary appointing one
17 representative of the Secretary, and those two
18 representatives jointly appointing a third indi-
19 vidual;

20 (B) if the Panel Determination is unani-
21 mous, the Tribe grant a right-of-way to the
22 United States for the existing uses identified in
23 the Panel Determination in accordance with ap-
24 plicable law without additional compensation;

1 (C) if the Panel Determination is not
2 unanimous—

3 (i) the Secretary adopt the Panel De-
4 termination with any amendments the Sec-
5 retary reasonably determines necessary to
6 correct any clear error (the “Interior De-
7 termination”), provided that if any portion
8 of the Panel Determination is unanimous,
9 the Secretary will not amend that portion;
10 and

11 (ii) the Tribe grant a right-of-way to
12 the United States for the existing uses
13 identified in the Interior Determination in
14 accordance with applicable law without ad-
15 ditional compensation, with the agreement
16 providing for the timing of the grant to
17 take into consideration the possibility of
18 review under paragraph (5).

19 (3) EFFECT.—Determinations made under this
20 subsection—

21 (A) do not address title as between the
22 United States and the Tribe; and

23 (B) do not apply to any new use of Res-
24 ervation land by the United States for the Milk
25 River Project after December 31, 2015.

1 (4) INTERIOR DETERMINATION AS FINAL AGEN-
2 CY ACTION.—Any determination by the Secretary
3 under paragraph (2)(C) shall be considered to be a
4 final agency action for purposes of review under
5 chapter 7 of title 5, United States Code.

6 (5) JUDICIAL REVIEW.—An action for judicial
7 review pursuant to this section shall be brought by
8 not later than the date that is 1 year after the date
9 of notification of the Interior Determination.

10 (g) FUNDING.—The total amount of obligations in-
11 curred by the Secretary, prior to any adjustment provided
12 for in section 3718, shall not exceed—

13 (1) \$3,800,000 to carry out subsection (c);

14 (2) \$20,700,000 to carry out subsection (d);

15 and

16 (3) \$3,100,000 to carry out subsection (f).

17 **SEC. 3708. ST. MARY CANAL HYDROELECTRIC POWER GEN-**
18 **ERATION.**

19 (a) BUREAU OF RECLAMATION JURISDICTION.—Ef-
20 fective beginning on the date of enactment of this Act,
21 the Commissioner of Reclamation shall have exclusive ju-
22 risdiction to authorize the development of hydropower on
23 the St. Mary Unit.

24 (b) RIGHTS OF TRIBE.—

1 (1) EXCLUSIVE RIGHT OF TRIBE.—Subject to
2 paragraph (2) and notwithstanding any other provi-
3 sion of law, the Tribe shall have the exclusive right
4 to develop and market hydroelectric power of the St.
5 Mary Unit.

6 (2) LIMITATIONS.—The exclusive right de-
7 scribed in paragraph (1)—

8 (A) shall expire on the date that is 15
9 years after the date of enactment of an Act ap-
10 propriating funds for rehabilitation of the St.
11 Mary Unit; but

12 (B) may be extended by the Secretary at
13 the request of the Tribe.

14 (3) OM&R COSTS.—Effective beginning on the
15 date that is 10 years after the date on which the
16 Tribe begins marketing hydroelectric power gen-
17 erated from the St. Mary Unit to any third party,
18 the Tribe shall make annual payments for OM&R
19 costs attributable to the direct use of any facilities
20 by the Tribe for hydroelectric power generation, in
21 amounts determined in accordance with the guide-
22 lines and methods of the Bureau of Reclamation for
23 assessing OM&R charges.

24 (c) BUREAU OF RECLAMATION COOPERATION.—The
25 Commissioner of Reclamation shall cooperate with the

1 Tribe in the development of any hydroelectric power gen-
2 eration project under this section.

3 (d) AGREEMENT.—Before construction of a hydro-
4 electric power generation project under this section, the
5 Tribe shall enter into an agreement with the Commis-
6 sioner of Reclamation that includes provisions—

7 (1) requiring that—

8 (A) the design, construction, and operation
9 of the project shall be consistent with the Bu-
10 reau of Reclamation guidelines and methods for
11 hydroelectric power development at Bureau fa-
12 cilities, as appropriate; and

13 (B) the hydroelectric power generation
14 project will not impair the efficiencies of the
15 Milk River Project for authorized purposes;

16 (2) regarding construction and operating cri-
17 teria and emergency procedures; and

18 (3) under which any modification proposed by
19 the Tribe to a facility owned by the Bureau of Rec-
20 lamation shall be subject to review and approval by
21 the Secretary, acting through the Commissioner of
22 Reclamation.

23 (e) USE OF HYDROELECTRIC POWER BY TRIBE.—
24 Any hydroelectric power generated in accordance with this
25 section shall be used or marketed by the Tribe.

1 (f) REVENUES.—The Tribe shall collect and retain
2 any revenues from the sale of hydroelectric power gen-
3 erated by a project under this section.

4 (g) LIABILITY OF UNITED STATES.—The United
5 States shall have no obligation to monitor, administer, or
6 account for—

7 (1) any revenues received by the Tribe under
8 this section; or

9 (2) the expenditure of those revenues.

10 (h) PREFERENCE.—During any period for which the
11 exclusive right of the Tribe described in subsection (b)(1)
12 is not in effect, the Tribe shall have a preference to de-
13 velop hydropower on the St. Mary Unit facilities, in ac-
14 cordance with Bureau of Reclamation guidelines and
15 methods for hydroelectric power development at Bureau
16 facilities.

17 **SEC. 3709. STORAGE ALLOCATION FROM LAKE ELWELL.**

18 (a)(1) STORAGE ALLOCATION TO TRIBE.—The Sec-
19 retary shall allocate to the Tribe 45,000 acre-feet per year
20 of water stored in Lake Elwell for use by the Tribe for
21 any beneficial purpose on or off the Reservation, under
22 a water right held by the United States and managed by
23 the Bureau of Reclamation, as measured at the outlet
24 works of Tiber Dam or through direct pumping from Lake
25 Elwell.

1 (2) REDUCTION.—Up to 10,000 acre-feet per year of
2 water allocated to the Tribe pursuant to paragraph (1)
3 will be subject to an acre-foot for acre-foot reduction if
4 depletions from the Tribal water rights above Lake Elwell
5 exceed 88,000 acre-feet per year of water because of New
6 Development (as defined in article II.37 of the Compact).

7 (b) TREATMENT.—

8 (1) IN GENERAL.—The allocation to the Tribe
9 under subsection (a) shall be considered to be part
10 of the Tribal water rights.

11 (2) PRIORITY DATE.—The priority date of the
12 allocation to the Tribe under subsection (a) shall be
13 the priority date of the Lake Elwell water right held
14 by the Bureau of Reclamation.

15 (3) ADMINISTRATION.—The Tribe shall admin-
16 ister the water allocated under subsection (a) in ac-
17 cordance with the Compact and this subtitle.

18 (c) ALLOCATION AGREEMENT.—

19 (1) IN GENERAL.—As a condition of receiving
20 an allocation under this section, the Tribe shall
21 enter into an agreement with the Secretary to estab-
22 lish the terms and conditions of the allocation, in ac-
23 cordance with the Compact and this subtitle.

24 (2) INCLUSIONS.—The agreement under para-
25 graph (1) shall include provisions establishing that—

1 (A) the agreement shall be without limit as
2 to term;

3 (B) the Tribe, and not the United States,
4 shall be entitled to all consideration due to the
5 Tribe under any lease, contract, or agreement
6 entered into by the Tribe pursuant to sub-
7 section (d);

8 (C) the United States shall have no obliga-
9 tion to monitor, administer, or account for—

10 (i) any funds received by the Tribe as
11 consideration under any lease, contract, or
12 agreement entered into by the Tribe pursu-
13 ant to subsection (d); or

14 (ii) the expenditure of those funds;

15 (D) if the capacity or function of Lake
16 Elwell facilities are significantly reduced, or are
17 anticipated to be significantly reduced, for an
18 extended period of time, the Tribe shall have
19 the same rights as other storage contractors
20 with respect to the allocation under this section;

21 (E) the costs associated with the construc-
22 tion of the storage facilities at Tiber Dam allo-
23 cable to the Tribe shall be nonreimbursable;

24 (F) no water service capital charge shall be
25 due or payable for any water allocated to the

1 Tribe pursuant to this section or the allocation
2 agreement, regardless of whether that water is
3 delivered for use by the Tribe or under a lease,
4 contract, or by agreement entered into by the
5 Tribe pursuant to subsection (d);

6 (G) the Tribe shall not be required to
7 make payments to the United States for any
8 water allocated to the Tribe under this subtitle
9 or the allocation agreement, except for each
10 acre-foot of stored water leased or transferred
11 for industrial purposes as described in subpara-
12 graph (H);

13 (H) for each acre-foot of stored water
14 leased or transferred by the Tribe for industrial
15 purposes—

16 (i) the Tribe shall pay annually to the
17 United States an amount necessary to
18 cover the proportional share of the annual
19 OM&R costs allocable to the quantity of
20 water leased or transferred by the Tribe
21 for industrial purposes; and

22 (ii) the annual payments of the Tribe
23 shall be reviewed and adjusted, as appro-
24 priate, to reflect the actual OM&R costs
25 for Tiber Dam; and

1 (I) the adjustment process identified in
2 subsection (a)(2) will be based on specific enu-
3 merated provisions.

4 (d) AGREEMENTS BY TRIBE.—The Tribe may use,
5 lease, contract, exchange, or enter into other agreements
6 for use of the water allocated to the Tribe under sub-
7 section (a), if—

8 (1) the use of water that is the subject of such
9 an agreement occurs within the Missouri River
10 Basin; and

11 (2) the agreement does not permanently alien-
12 ate any portion of the water allocated to the Tribe
13 under subsection (a).

14 (e) EFFECTIVE DATE.—The allocation under sub-
15 section (a) takes effect on the enforceability date.

16 (f) NO CARRYOVER STORAGE.—The allocation under
17 subsection (a) shall not be increased by any year-to-year
18 carryover storage.

19 (g) DEVELOPMENT AND DELIVERY COSTS.—The
20 United States shall not be required to pay the cost of de-
21 veloping or delivering any water allocated under this sec-
22 tion.

23 **SEC. 3710. IRRIGATION ACTIVITIES.**

24 (a) IN GENERAL.—Subject to the availability of ap-
25 propriations, the Secretary, acting through the Commis-

1 sioner of Reclamation and in accordance with subsection
2 (c), shall carry out the following actions relating to the
3 Blackfeet Irrigation Project:

4 (1) Deferred maintenance.

5 (2) Dam safety improvements for Four Horns
6 Dam.

7 (3) Rehabilitation and enhancement of the Four
8 Horns Feeder Canal, Dam, and Reservoir.

9 (b) LEAD AGENCY.—The Bureau of Reclamation
10 shall serve as the lead agency with respect to any activities
11 carried out under this section.

12 (c) SCOPE OF DEFERRED MAINTENANCE ACTIVITIES
13 AND FOUR HORNS DAM SAFETY IMPROVEMENTS.—

14 (1) IN GENERAL.—Subject to the conditions de-
15 scribed in paragraph (2), the scope of the deferred
16 maintenance activities and Four Horns Dam safety
17 improvements shall be as generally described in—

18 (A) the document entitled “Engineering
19 Evaluation and Condition Assessment, Black-
20 feet Irrigation Project”, prepared by DOWL
21 HKM, and dated August 2007; and

22 (B) the provisions relating to Four Horns
23 Rehabilitated Dam of the document entitled
24 “Four Horns Dam Enlarged Appraisal Evalua-

1 tion Design Report”, prepared by DOWL
2 HKM, and dated April 2007.

3 (2) CONDITIONS.—The conditions referred to in
4 paragraph (1) are that, before commencing construc-
5 tion activities, the Secretary shall—

6 (A) review the design of the proposed reha-
7 bilitation or improvement;

8 (B) perform value engineering analyses;

9 (C) perform appropriate Federal environ-
10 mental compliance activities; and

11 (D) ensure that the deferred maintenance
12 activities and dam safety improvements may be
13 constructed using only the amounts made avail-
14 able under section 3718.

15 (d) SCOPE OF REHABILITATION AND ENHANCEMENT
16 OF FOUR HORNS FEEDER CANAL, DAM, AND RES-
17 ERVOIR.—

18 (1) IN GENERAL.—The scope of the rehabilita-
19 tion and improvements shall be as generally de-
20 scribed in the document entitled “Four Horns Feed-
21 er Canal Rehabilitation with Export”, prepared by
22 DOWL HKM, and dated April 2013, subject to the
23 condition that, before commencing construction ac-
24 tivities, the Secretary shall—

1 (A) review the design of the proposed reha-
2 bilitation or improvement;

3 (B) perform value engineering analyses;

4 (C) perform appropriate Federal environ-
5 mental compliance activities; and

6 (D) ensure that the rehabilitation and im-
7 provements may be constructed using only the
8 amounts made available under section 3718.

9 (2) INCLUSIONS.—The activities carried out by
10 the Secretary under this subsection shall include—

11 (A) the rehabilitation or improvement of
12 the Four Horns feeder canal system to a capac-
13 ity of not fewer than 360 cubic feet per second;

14 (B) the rehabilitation or improvement of
15 the outlet works of Four Horns Dam and Res-
16ervoir to deliver not less than 15,000 acre-feet
17 of water per year, in accordance with subpara-
18 graph (C); and

19 (C) construction of facilities to deliver not
20 less than 15,000 acre-feet of water per year
21 from Four Horns Dam and Reservoir, to a
22 point on or near Birch Creek to be designated
23 by the Tribe and the State for delivery of water
24 to the water delivery system of the Pondera
25 County Canal and Reservoir Company on Birch

1 Creek, in accordance with the Birch Creek
2 Agreement.

3 (3) NEGOTIATION WITH TRIBE.—On the basis
4 of the review described in paragraph (1)(A), the Sec-
5 retary shall negotiate with the Tribe appropriate
6 changes to the final design of any activity under this
7 subsection to ensure that the final design meets ap-
8 plicable industry standards.

9 (e) FUNDING.—The total amount of obligations in-
10 curred by the Secretary in carrying out this section, prior
11 to any adjustment provided for in section 3718, shall not
12 exceed \$54,900,000, of which—

13 (1) \$40,900,000 shall be allocated to carry out
14 the activities described in subsection (e); and

15 (2) \$14,000,000 shall be allocated to carry out
16 the activities described in subsection (d)(2).

17 (f) NONREIMBURSABILITY OF COSTS.—All costs in-
18 curred by the Secretary in carrying out this section shall
19 be nonreimbursable.

20 (g) NON-FEDERAL CONTRIBUTION.—No part of the
21 project under subsection (d) shall be commenced until the
22 State has made available \$20,000,000 to carry out the ac-
23 tivities described in subsection (d)(2).

24 (h) ADMINISTRATION.—The Commissioner of Rec-
25 lamation and the Tribe shall negotiate the cost of any

1 oversight activity carried out by the Bureau of Reclama-
2 tion under any agreement entered into under subsection
3 (m), subject to the condition that the total cost for the
4 oversight shall not exceed 4 percent of the total project
5 costs for each project.

6 (i) PROJECT EFFICIENCIES.—If the total cost of
7 planning, design, and construction activities relating to
8 the projects described in this section results in cost sav-
9 ings and is less than the amounts authorized to be obli-
10 gated, the Secretary, at the request of the Tribe, may—

11 (1) use those cost savings to carry out a project
12 described in section 3707(d), 3711, 3712, or 3713;
13 or

14 (2) deposit those cost savings to the Blackfeet
15 OM&R Trust Account.

16 (j) OWNERSHIP BY TRIBE OF BIRCH CREEK DELIV-
17 ERY FACILITIES.—Notwithstanding any other provision of
18 law, the Secretary shall transfer to the Tribe, at no cost,
19 title in and to the facilities constructed under subsection
20 (d)(2)(C).

21 (k) OWNERSHIP, OPERATION, AND MAINTENANCE.—
22 On transfer to the Tribe of title under subsection (j), the
23 Tribe shall—

24 (1) be responsible for OM&R in accordance with
25 the Birch Creek Agreement; and

1 (2) enter into an agreement with the Bureau of
2 Indian Affairs regarding the operation of the facili-
3 ties described in that subsection.

4 (1) LIABILITY OF UNITED STATES.—The United
5 States shall have no obligation or responsibility with re-
6 spect the facilities described in subsection (d)(2)(C).

7 (m) APPLICABILITY OF ISDEAA.—At the request of
8 the Tribe, and in accordance with the Indian Self-Deter-
9 mination and Education Assistance Act (25 U.S.C. 5301
10 et seq.), the Secretary shall enter into 1 or more agree-
11 ments with the Tribe to carry out this section.

12 (n) EFFECT.—Nothing in this section—

13 (1) alters any applicable law (including regula-
14 tions) under which the Bureau of Indian Affairs col-
15 lects assessments or carries out Blackfeet Irrigation
16 Project OM&R; or

17 (2) impacts the availability of amounts made
18 available under subsection (a)(1)(B) of section 3718.

19 **SEC. 3711. DESIGN AND CONSTRUCTION OF MR&I SYSTEM.**

20 (a) IN GENERAL.—Subject to the availability of ap-
21 propriations, the Secretary, acting through the Commis-
22 sioner of Reclamation, shall plan, design, and construct
23 the water diversion and delivery features of the MR&I Sys-
24 tem in accordance with 1 or more agreements between the
25 Secretary and the Tribe.

1 (b) LEAD AGENCY.—The Bureau of Reclamation
2 shall serve as the lead agency with respect to any activity
3 to design and construct the water diversion and delivery
4 features of the MR&I System.

5 (c) SCOPE.—

6 (1) IN GENERAL.—The scope of the design and
7 construction under this section shall be as generally
8 described in the document entitled “Blackfeet Re-
9 gional Water System”, prepared by DOWL HKM,
10 dated June 2010, and modified by DOWL HKM in
11 the addendum to the report dated March 2013, sub-
12 ject to the condition that, before commencing final
13 design and construction activities, the Secretary
14 shall—

15 (A) review the design of the proposed reha-
16 bilitation and construction;

17 (B) perform value engineering analyses;
18 and

19 (C) perform appropriate Federal compli-
20 ance activities.

21 (2) NEGOTIATION WITH TRIBE.—On the basis
22 of the review described in paragraph (1)(A), the Sec-
23 retary shall negotiate with the Tribe appropriate
24 changes, if any, to the final design—

1 (A) to ensure that the final design meets
2 applicable industry standards;

3 (B) to improve the cost-effectiveness of the
4 delivery of MR&I System water; and

5 (C) to ensure that the MR&I System may
6 be constructed using only the amounts made
7 available under section 3718.

8 (d) NONREIMBURSABILITY OF COSTS.—All costs in-
9 curred by the Secretary in carrying out this section shall
10 be nonreimbursable.

11 (e) FUNDING.—The total amount of obligations in-
12 curred by the Secretary in carrying out this section, prior
13 to any adjustment provided for in section 3718, shall not
14 exceed \$76,200,000.

15 (f) NON-FEDERAL CONTRIBUTION.—

16 (1) CONSULTATION.—Before completion of the
17 final design of the MR&I System required by sub-
18 section (c), the Secretary shall consult with the
19 Tribe, the State, and other affected non-Federal
20 parties to discuss the possibility of receiving non-
21 Federal contributions for the cost of the MR&I Sys-
22 tem.

23 (2) NEGOTIATIONS.—If, based on the extent to
24 which non-Federal parties are expected to use the
25 MR&I System, a non-Federal contribution to the

1 MR&I System is determined by the parties described
2 in paragraph (1) to be appropriate, the Secretary
3 shall initiate negotiations for an agreement regard-
4 ing the means by which the contributions shall be
5 provided.

6 (g) OWNERSHIP BY TRIBE.—Title to the MR&I Sys-
7 tem and all facilities rehabilitated or constructed under
8 this section shall be held by the Tribe.

9 (h) ADMINISTRATION.—The Commissioner of Rec-
10 lamation and the Tribe shall negotiate the cost of any
11 oversight activity carried out by the Bureau of Reclama-
12 tion under any agreement entered into under this section,
13 subject to the condition that the total cost for the over-
14 sight shall not exceed 4 percent of the total costs incurred
15 under this section.

16 (i) OM&R COSTS.—The Federal Government shall
17 have no obligation to pay for the OM&R costs for any fa-
18 cility rehabilitated or constructed under this section.

19 (j) PROJECT EFFICIENCIES.—If the total cost of
20 planning, design, and construction activities relating to
21 the projects described in this section results in cost sav-
22 ings and is less than the amounts authorized to be obli-
23 gated, the Secretary, at the request of the Tribe, may—

1 (1) use those cost savings to carry out a project
2 described in section 3707(d), 3710, 3712, or 3713;
3 or

4 (2) deposit those cost savings to the Blackfeet
5 OM&R Trust Account.

6 (k) **APPLICABILITY OF ISDEAA.**—At the request of
7 the Tribe, and in accordance with the Indian Self-Deter-
8 mination and Education Assistance Act (25 U.S.C. 5301
9 et seq.), the Secretary shall enter into 1 or more agree-
10 ments with the Tribe to carry out this section.

11 **SEC. 3712. DESIGN AND CONSTRUCTION OF WATER STOR-**
12 **AGE AND IRRIGATION FACILITIES.**

13 (a) **IN GENERAL.**—Subject to the availability of ap-
14 propriations, the Secretary, acting through the Commis-
15 sioner of Reclamation, shall plan, design, and construct
16 1 or more facilities to store water and support irrigation
17 on the Reservation in accordance with 1 or more agree-
18 ments between the Secretary and the Tribe.

19 (b) **LEAD AGENCY.**—The Bureau of Reclamation
20 shall serve as the lead agency with respect to any activity
21 to design and construct the irrigation development and
22 water storage facilities described in subsection (c).

23 (c) **SCOPE.**—

24 (1) **IN GENERAL.**—The scope of the design and
25 construction under this section shall be as generally

1 described in the document entitled “Blackfeet Water
2 Storage, Development, and Project Report”, pre-
3 pared by DOWL HKM, and dated March 13, 2013,
4 as modified and agreed to by the Secretary and the
5 Tribe, subject to the condition that, before com-
6 mencing final design and construction activities, the
7 Secretary shall—

8 (A) review the design of the proposed con-
9 struction;

10 (B) perform value engineering analyses;
11 and

12 (C) perform appropriate Federal compli-
13 ance activities.

14 (2) MODIFICATION.—The Secretary may modify
15 the scope of construction for the projects described
16 in the document referred to in paragraph (1), if—

17 (A) the modified project is—

18 (i) similar in purpose to the proposed
19 projects; and

20 (ii) consistent with the purposes of
21 this subtitle; and

22 (B) the Secretary has consulted with the
23 Tribe regarding any modification.

24 (3) NEGOTIATION WITH TRIBE.—On the basis
25 of the review described in paragraph (1)(A), the Sec-

1 retary shall negotiate with the Tribe appropriate
2 changes, if any, to the final design—

3 (A) to ensure that the final design meets
4 applicable industry standards;

5 (B) to improve the cost-effectiveness of any
6 construction; and

7 (C) to ensure that the projects may be con-
8 structed using only the amounts made available
9 under section 3718.

10 (d) NONREIMBURSABILITY OF COSTS.—All costs in-
11 curred by the Secretary in carrying out this section shall
12 be nonreimbursable.

13 (e) FUNDING.—The total amount of obligations in-
14 curred by the Secretary in carrying out this section, prior
15 to any adjustment provided for in section 3718, shall not
16 exceed \$87,300,000.

17 (f) OWNERSHIP BY TRIBE.—Title to all facilities re-
18 habilitated or constructed under this section shall be held
19 by the Tribe, except that title to the Birch Creek Unit
20 of the Blackfeet Indian Irrigation Project shall remain
21 with the Bureau of Indian Affairs.

22 (g) ADMINISTRATION.—The Commissioner of Rec-
23 lamation and the Tribe shall negotiate the cost of any
24 oversight activity carried out by the Bureau of Reclama-
25 tion under any agreement entered into under this section,

1 subject to the condition that the total cost for the over-
2 sight shall not exceed 4 percent of the total costs incurred
3 under this section.

4 (h) OM&R COSTS.—The Federal Government shall
5 have no obligation to pay for the OM&R costs for the fa-
6 cilities rehabilitated or constructed under this section.

7 (i) PROJECT EFFICIENCIES.—If the total cost of
8 planning, design, and construction activities relating to
9 the projects described in this section results in cost sav-
10 ings and is less than the amounts authorized to be obli-
11 gated, the Secretary, at the request of the Tribe, may—

12 (1) use those cost savings to carry out a project
13 described in section 3707(d), 3710, 3711, or 3713;
14 or

15 (2) deposit those cost savings to the Blackfeet
16 OM&R Trust Account.

17 (j) APPLICABILITY OF ISDEAA.—At the request of
18 the Tribe, and in accordance with the Indian Self-Deter-
19 mination and Education Assistance Act (25 U.S.C. 5301
20 et seq.), the Secretary shall enter into 1 or more agree-
21 ments with the Tribe to carry out this section.

22 **SEC. 3713. BLACKFEET WATER, STORAGE, AND DEVELOP-**
23 **MENT PROJECTS.**

24 (a) IN GENERAL.—

1 (1) SCOPE.—The scope of the construction
2 under this section shall be as generally described in
3 the document entitled “Blackfeet Water Storage,
4 Development, and Project Report”, prepared by
5 DOWL HKM, and dated March 13, 2013, as modi-
6 fied and agreed to by the Secretary and the Tribe.

7 (2) MODIFICATION.—The Tribe may modify the
8 scope of the projects described in the document re-
9 ferred to in paragraph (1) if—

10 (A) the modified project is—

11 (i) similar to the proposed project;

12 and

13 (ii) consistent with the purposes of
14 this subtitle; and

15 (B) the modification is approved by the
16 Secretary.

17 (b) NONREIMBURSABILITY OF COSTS.—All costs in-
18 curred by the Secretary in carrying out this section shall
19 be nonreimbursable.

20 (c) FUNDING.—The total amount of obligations in-
21 curred by the Secretary in carrying out this section, prior
22 to any adjustment provided for in section 3718, shall not
23 exceed \$91,000,000.

1 (d) OM&R COSTS.—The Federal Government shall
2 have no obligation to pay for the OM&R costs for the fa-
3 cilities rehabilitated or constructed under this section.

4 (e) OWNERSHIP BY TRIBE.—Title to any facility con-
5 structed under this section shall be held by the Tribe.

6 **SEC. 3714. EASEMENTS AND RIGHTS-OF-WAY.**

7 (a) TRIBAL EASEMENTS AND RIGHTS-OF-WAY.—

8 (1) IN GENERAL.—On request of the Secretary,
9 the Tribe shall grant, at no cost to the United
10 States, such easements and rights-of-way over tribal
11 land as are necessary for the construction of the
12 projects authorized by sections 3710 and 3711.

13 (2) JURISDICTION.—An easement or right-of-
14 way granted by the Tribe pursuant to paragraph (1)
15 shall not affect in any respect the civil or criminal
16 jurisdiction of the Tribe over the easement or right-
17 of-way.

18 (b) LANDOWNER EASEMENTS AND RIGHTS-OF-
19 WAY.—In partial consideration for the construction activi-
20 ties authorized by section 3711, and as a condition of re-
21 ceiving service from the MR&I System, a landowner shall
22 grant, at no cost to the United States or the Tribe, such
23 easements and rights-of-way over the land of the land-
24 owner as may be necessary for the construction of the
25 MR&I System.

1 (c) LAND ACQUIRED BY UNITED STATES OR
2 TRIBE.—Any land acquired within the boundaries of the
3 Reservation by the United States on behalf of the Tribe,
4 or by the Tribe on behalf of the Tribe, in connection with
5 achieving the purposes of this subtitle shall be held in
6 trust by the United States for the benefit of the Tribe.

7 **SEC. 3715. TRIBAL WATER RIGHTS.**

8 (a) CONFIRMATION OF TRIBAL WATER RIGHTS.—

9 (1) IN GENERAL.—The Tribal water rights are
10 ratified, confirmed, and declared to be valid.

11 (2) USE.—Any use of the Tribal water rights
12 shall be subject to the terms and conditions of the
13 Compact and this subtitle.

14 (3) CONFLICT.—In the event of a conflict be-
15 tween the Compact and this subtitle, the provisions
16 of this subtitle shall control.

17 (b) INTENT OF CONGRESS.—It is the intent of Con-
18 gress to provide to each allottee benefits that are equiva-
19 lent to, or exceed, the benefits the allottees possess on the
20 day before the date of enactment of this Act, taking into
21 consideration—

22 (1) the potential risks, cost, and time delay as-
23 sociated with litigation that would be resolved by the
24 Compact and this subtitle;

1 (2) the availability of funding under this sub-
2 title and from other sources;

3 (3) the availability of water from the Tribal
4 water rights; and

5 (4) the applicability of section 7 of the Act of
6 February 8, 1887 (25 U.S.C. 381), and this subtitle
7 to protect the interests of allottees.

8 (c) TRUST STATUS OF TRIBAL WATER RIGHTS.—
9 The Tribal water rights—

10 (1) shall be held in trust by the United States
11 for the use and benefit of the Tribe and the allottees
12 in accordance with this subtitle; and

13 (2) shall not be subject to forfeiture or aban-
14 donment.

15 (d) ALLOTTEES.—

16 (1) APPLICABILITY OF ACT OF FEBRUARY 8,
17 1887.—The provisions of section 7 of the Act of Feb-
18 ruary 8, 1887 (25 U.S.C. 381), relating to the use
19 of water for irrigation purposes, shall apply to the
20 Tribal water rights.

21 (2) ENTITLEMENT TO WATER.—Any entitle-
22 ment to water of an allottee under Federal law shall
23 be satisfied from the Tribal water rights.

1 (3) ALLOCATIONS.—An allottee shall be entitled
2 to a just and equitable allocation of water for irriga-
3 tion purposes.

4 (4) CLAIMS.—

5 (A) EXHAUSTION OF REMEDIES.—Before
6 asserting any claim against the United States
7 under section 7 of the Act of February 8, 1887
8 (25 U.S.C. 381), or any other applicable law,
9 an allottee shall exhaust remedies available
10 under the tribal water code or other applicable
11 tribal law.

12 (B) ACTION FOR RELIEF.—After the ex-
13 haustion of all remedies available under the
14 tribal water code or other applicable tribal law,
15 an allottee may seek relief under section 7 of
16 the Act of February 8, 1887 (25 U.S.C. 381),
17 or other applicable law.

18 (5) AUTHORITY OF SECRETARY.—The Sec-
19 retary shall have the authority to protect the rights
20 of allottees in accordance with this section.

21 (e) AUTHORITY OF TRIBE.—

22 (1) IN GENERAL.—The Tribe shall have the au-
23 thority to allocate, distribute, and lease the Tribal
24 water rights for any use on the Reservation in ac-

1 cordance with the Compact, this subtitle, and appli-
2 cable Federal law.

3 (2) OFF-RESERVATION USE.—The Tribe may
4 allocate, distribute, and lease the Tribal water rights
5 for off-Reservation use in accordance with the Com-
6 pact, subject to the approval of the Secretary.

7 (3) LAND LEASES BY ALLOTTEES.—Notwith-
8 standing paragraph (1), an allottee may lease any
9 interest in land held by the allottee, together with
10 any water right determined to be appurtenant to the
11 interest in land, in accordance with the tribal water
12 code.

13 (f) TRIBAL WATER CODE.—

14 (1) IN GENERAL.—Notwithstanding article
15 IV.C.1. of the Compact, not later than 4 years after
16 the date on which the Tribe ratifies the Compact in
17 accordance with this subtitle, the Tribe shall enact
18 a tribal water code that provides for—

19 (A) the management, regulation, and gov-
20 ernance of all uses of the Tribal water rights in
21 accordance with the Compact and this subtitle;
22 and

23 (B) establishment by the Tribe of condi-
24 tions, permit requirements, and other require-
25 ments for the allocation, distribution, or use of

1 the Tribal water rights in accordance with the
2 Compact and this subtitle.

3 (2) INCLUSIONS.—Subject to the approval of
4 the Secretary, the tribal water code shall provide—

5 (A) that use of water by allottees shall be
6 satisfied with water from the Tribal water
7 rights;

8 (B) a process by which an allottee may re-
9 quest that the Tribe provide water for irrigation
10 use in accordance with this subtitle, including
11 the provision of water under any allottee lease
12 under section 4 of the Act of June 25, 1910
13 (25 U.S.C. 403);

14 (C) a due process system for the consider-
15 ation and determination by the Tribe of any re-
16 quest by an allottee (or a successor in interest
17 to an allottee) for an allocation of water for ir-
18 rigation purposes on allotted land, including a
19 process for—

20 (i) appeal and adjudication of any de-
21 nied or disputed distribution of water; and

22 (ii) resolution of any contested admin-
23 istrative decision; and

24 (D) a requirement that any allottee assert-
25 ing a claim relating to the enforcement of rights

1 of the allottee under the tribal water code, or
2 to the quantity of water allocated to land of the
3 allottee, shall exhaust all remedies available to
4 the allottee under tribal law before initiating an
5 action against the United States or petitioning
6 the Secretary pursuant to subsection (d)(4)(B).

7 (3) ACTION BY SECRETARY.—

8 (A) IN GENERAL.—During the period be-
9 ginning on the date of enactment of this Act
10 and ending on the date on which a tribal water
11 code described in paragraphs (1) and (2) is en-
12 acted, the Secretary shall administer, with re-
13 spect to the rights of allottees, the Tribal water
14 rights in accordance with this subtitle.

15 (B) APPROVAL.—The tribal water code de-
16 scribed in paragraphs (1) and (2) shall not be
17 valid unless—

18 (i) the provisions of the tribal water
19 code required by paragraph (2) are ap-
20 proved by the Secretary; and

21 (ii) each amendment to the tribal
22 water code that affects a right of an allot-
23 tee is approved by the Secretary.

24 (C) APPROVAL PERIOD.—

1 (i) IN GENERAL.—The Secretary shall
2 approve or disapprove the tribal water code
3 or an amendment to the tribal water code
4 not later than 180 days after the date on
5 which the tribal water code or amendment
6 is submitted to the Secretary.

7 (ii) EXTENSION.—The deadline de-
8 scribed in clause (i) may be extended by
9 the Secretary after consultation with the
10 Tribe.

11 (g) ADMINISTRATION.—

12 (1) NO ALIENATION.—The Tribe shall not per-
13 manently alienate any portion of the Tribal water
14 rights.

15 (2) PURCHASES OR GRANTS OF LAND FROM IN-
16 DIANS.—An authorization provided by this subtitle
17 for the allocation, distribution, leasing, or other ar-
18 rangement entered into pursuant to this subtitle
19 shall be considered to satisfy any requirement for
20 authorization of the action by treaty or convention
21 imposed by section 2116 of the Revised Statutes (25
22 U.S.C. 177).

23 (3) PROHIBITION ON FORFEITURE.—The non-
24 use of all or any portion of the Tribal water rights
25 by a lessee or contractor shall not result in the for-

1 feiture, abandonment, relinquishment, or other loss
2 of all or any portion of the Tribal water rights.

3 (h) EFFECT.—Except as otherwise expressly provided
4 in this section, nothing in this subtitle—

5 (1) authorizes any action by an allottee against
6 any individual or entity, or against the Tribe, under
7 Federal, State, tribal, or local law; or

8 (2) alters or affects the status of any action
9 brought pursuant to section 1491(a) of title 28,
10 United States Code.

11 **SEC. 3716. BLACKFEET SETTLEMENT TRUST FUND.**

12 (a) ESTABLISHMENT.—There is established in the
13 Treasury of the United States a trust fund, to be known
14 as the “Blackfeet Settlement Trust Fund” (referred to in
15 this section as the “Trust Fund”), to be managed, in-
16 vested, and distributed by the Secretary and to remain
17 available until expended, consisting of the amounts depos-
18 ited in the Trust Fund under subsection (c), together with
19 any interest earned on those amounts, for the purpose of
20 carrying out this subtitle.

21 (b) ACCOUNTS.—The Secretary shall establish in the
22 Trust Fund the following accounts:

23 (1) The Administration and Energy Account.

24 (2) The OM&R Account.

25 (3) The St. Mary Account.

1 (4) The Blackfeet Water, Storage, and Develop-
2 ment Projects Account.

3 (c) DEPOSITS.—The Secretary shall deposit in the
4 Trust Fund—

5 (1) in the Administration and Energy Account,
6 the amount made available pursuant to section
7 3718(a)(1)(A);

8 (2) in the OM&R Account, the amount made
9 available pursuant to section 3718(a)(1)(B);

10 (3) in the St. Mary Account, the amount made
11 available pursuant to section 3718(a)(1)(C); and

12 (4) in the Blackfeet Water, Storage, and Develop-
13 ment Projects Account, the amount made avail-
14 able pursuant to section 3718(a)(1)(D).

15 (d) MANAGEMENT AND INTEREST.—

16 (1) MANAGEMENT.—The Secretary shall man-
17 age, invest, and distribute all amounts in the Trust
18 Fund in a manner that is consistent with the invest-
19 ment authority of the Secretary under—

20 (A) the first section of the Act of June 24,
21 1938 (25 U.S.C. 162a);

22 (B) the American Indian Trust Fund Man-
23 agement Reform Act of 1994 (25 U.S.C. 4001
24 et seq.); and

25 (C) this section.

1 (2) INTEREST.—In addition to the deposits
2 under subsection (c), any interest credited to
3 amounts unexpended in the Trust Fund are author-
4 ized to be appropriated to be used in accordance
5 with the uses described in subsection (h).

6 (e) AVAILABILITY OF AMOUNTS.—

7 (1) IN GENERAL.—Amounts appropriated to,
8 and deposited in, the Trust Fund, including any in-
9 vestment earnings, shall be made available to the
10 Tribe by the Secretary beginning on the enforce-
11 ability date.

12 (2) FUNDING FOR TRIBAL IMPLEMENTATION
13 ACTIVITIES.—Notwithstanding paragraph (1), on ap-
14 proval pursuant to this subtitle and the Compact by
15 a referendum vote of a majority of votes cast by
16 members of the Tribe on the day of the vote, as cer-
17 tified by the Secretary and the Tribe and subject to
18 the availability of appropriations, of the amounts in
19 the Administration and Energy Account, \$4,800,000
20 shall be made available to the Tribe for the imple-
21 mentation of this subtitle.

22 (f) WITHDRAWALS UNDER AIFRMRA.—

23 (1) IN GENERAL.—The Tribe may withdraw
24 any portion of the funds in the Trust Fund on ap-
25 proval by the Secretary of a tribal management plan

1 submitted by the Tribe in accordance with the
2 American Indian Trust Fund Management Reform
3 Act of 1994 (25 U.S.C. 4001 et seq.).

4 (2) REQUIREMENTS.—

5 (A) IN GENERAL.—In addition to the re-
6 quirements under the American Indian Trust
7 Fund Management Reform Act of 1994 (25
8 U.S.C. 4001 et seq.), the tribal management
9 plan under paragraph (1) shall require that the
10 Tribe shall spend all amounts withdrawn from
11 the Trust Fund in accordance with this subtitle.

12 (B) ENFORCEMENT.—The Secretary may
13 carry out such judicial and administrative ac-
14 tions as the Secretary determines to be nec-
15 essary to enforce the tribal management plan to
16 ensure that amounts withdrawn by the Tribe
17 from the Trust Fund under this subsection are
18 used in accordance with this subtitle.

19 (g) WITHDRAWALS UNDER EXPENDITURE PLAN.—

20 (1) IN GENERAL.—The Tribe may submit to
21 the Secretary a request to withdraw funds from the
22 Trust Fund pursuant to an approved expenditure
23 plan.

24 (2) REQUIREMENTS.—To be eligible to with-
25 draw funds under an expenditure plan under para-

1 graph (1), the Tribe shall submit to the Secretary
2 for approval an expenditure plan for any portion of
3 the Trust Fund that the Tribe elects to withdraw
4 pursuant to this subsection, subject to the condition
5 that the funds shall be used for the purposes de-
6 scribed in this subtitle.

7 (3) INCLUSIONS.—An expenditure plan under
8 this subsection shall include a description of the
9 manner and purpose for which the amounts pro-
10 posed to be withdrawn from the Trust Fund will be
11 used by the Tribe, in accordance with subsection (h).

12 (4) APPROVAL.—On receipt of an expenditure
13 plan under this subsection, the Secretary shall ap-
14 prove the plan, if the Secretary determines that the
15 plan—

16 (A) is reasonable; and

17 (B) is consistent with, and will be used for,
18 the purposes of this subtitle.

19 (5) ENFORCEMENT.—The Secretary may carry
20 out such judicial and administrative actions as the
21 Secretary determines to be necessary to enforce an
22 expenditure plan to ensure that amounts disbursed
23 under this subsection are used in accordance with
24 this subtitle.

1 (h) USES.—Amounts from the Trust Fund shall be
2 used by the Tribe for the following purposes:

3 (1) The Administration and Energy Account
4 shall be used for administration of the Tribal water
5 rights and energy development projects under this
6 subtitle and the Compact.

7 (2) The OM&R Account shall be used to assist
8 the Tribe in paying OM&R costs.

9 (3) The St. Mary Account shall be distributed
10 pursuant to an expenditure plan approved under
11 subsection (g), subject to the conditions that—

12 (A) during the period for which the
13 amount is available and held by the Secretary,
14 \$500,000 shall be distributed to the Tribe an-
15 nually as compensation for the deferral of the
16 St. Mary water right; and

17 (B) any additional amounts deposited in
18 the account may be withdrawn and used by the
19 Tribe to pay OM&R costs or other expenses for
20 1 or more projects to benefit the Tribe, as ap-
21 proved by the Secretary, subject to the require-
22 ment that the Secretary shall not approve an
23 expenditure plan under this paragraph unless
24 the Tribe provides a resolution of the tribal
25 council—

1 (i) approving the withdrawal of the
2 funds from the account; and

3 (ii) acknowledging that the Secretary
4 will not be able to distribute funds under
5 subparagraph (A) indefinitely if the prin-
6 cipal funds in the account are reduced.

7 (4) The Blackfeet Water, Storage, and Develop-
8 ment Projects Account shall be used to carry out
9 section 3713.

10 (i) LIABILITY.—The Secretary and the Secretary of
11 the Treasury shall not be liable for the expenditure or in-
12 vestment of any amounts withdrawn from the Trust Fund
13 by the Tribe under subsection (f) or (g).

14 (j) NO PER CAPITA DISTRIBUTIONS.—No portion of
15 the Trust Fund shall be distributed on a per capita basis
16 to any member of the Tribe.

17 (k) DEPOSIT OF FUNDS.—On request by the Tribe,
18 the Secretary may deposit amounts from an account de-
19 scribed in paragraph (1), (2), or (4) of subsection (b) to
20 any other account the Secretary determines to be appro-
21 priate.

22 **SEC. 3717. BLACKFEET WATER SETTLEMENT IMPLEMENTA-**
23 **TION FUND.**

24 (a) ESTABLISHMENT.—There is established in the
25 Treasury of the United States a nontrust, interest-bearing

1 account, to be known as the “Blackfeet Water Settlement
2 Implementation Fund” (referred to in this section as the
3 “Implementation Fund”), to be managed and distributed
4 by the Secretary, for use by the Secretary for carrying
5 out this subtitle.

6 (b) ACCOUNTS.—The Secretary shall establish in the
7 Implementation Fund the following accounts:

8 (1) The MR&I System, Irrigation, and Water
9 Storage Account.

10 (2) The Blackfeet Irrigation Project Deferred
11 Maintenance and Four Horns Dam Safety Improve-
12 ments Account.

13 (3) The St. Mary/Milk Water Management and
14 Activities Fund.

15 (c) DEPOSITS.—The Secretary shall deposit in the
16 Implementation Fund—

17 (1) in the MR&I System, Irrigation, and Water
18 Storage Account, the amount made available pursu-
19 ant to section 3718(a)(2)(A);

20 (2) in the Blackfeet Irrigation Project Deferred
21 Maintenance and Four Horns Dam Safety Improve-
22 ments Account, the amount made available pursuant
23 to section 3718(a)(2)(B); and

1 (3) in the St. Mary/Milk Water Management
2 and Activities Fund, the amount made available pur-
3 suant to section 3718(a)(2)(C).

4 (d) USES.—

5 (1) MR&I SYSTEM, IRRIGATION, AND WATER
6 STORAGE ACCOUNT.—The MR&I System, Irrigation,
7 and Water Storage Account shall be used to carry
8 out sections 3711 and 3712.

9 (2) BLACKFEET IRRIGATION PROJECT DE-
10 FERRED MAINTENANCE AND FOUR HORNS DAM
11 SAFETY IMPROVEMENTS ACCOUNT.—The Blackfeet
12 Irrigation Project Deferred Maintenance and Four
13 Horns Dam Safety Improvements Account shall be
14 used to carry out section 3710.

15 (3) ST. MARY/MILK WATER MANAGEMENT AND
16 ACTIVITIES ACCOUNT.—The St. Mary/Milk Water
17 Management and Activities Account shall be used to
18 carry out sections 3705 and 3707.

19 (e) MANAGEMENT.—Amounts in the Implementation
20 Fund shall not be available to the Secretary for expendi-
21 ture until the enforceability date.

22 (f) INTEREST.—In addition to the deposits under
23 subsection (c), any interest credited to amounts unex-
24 pended in the Implementation Fund are authorized to be

1 appropriated to be used in accordance with the uses de-
2 scribed in subsection (d).

3 **SEC. 3718. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—Subject to subsection (b), there
5 are authorized to be appropriated to the Secretary—

6 (1) as adjusted on appropriation to reflect
7 changes since April 2010 in the Consumer Price
8 Index for All Urban Consumers West Urban 50,000
9 to 1,500,000 index for the amount appropriated—

10 (A) for deposit in the Administration and
11 Energy Account of the Blackfeet Settlement
12 Trust Fund established under section
13 3716(b)(1), \$28,900,000;

14 (B) for deposit in the OM&R Account of
15 the Blackfeet Settlement Trust Fund estab-
16 lished under section 3716(b)(2), \$27,760,000;

17 (C) for deposit in the St. Mary Account of
18 the Blackfeet Settlement Trust Fund estab-
19 lished under section 3716(b)(3), \$27,800,000;

20 (D) for deposit in the Blackfeet Water,
21 Storage, and Development Projects Account of
22 the Blackfeet Settlement Trust Fund estab-
23 lished under section 3716(b)(4), \$91,000,000;
24 and

1 (E) the amount of interest credited to the
2 unexpended amounts of the Blackfeet Settle-
3 ment Trust Fund; and

4 (2) as adjusted annually to reflect changes
5 since April 2010 in the Bureau of Reclamation Con-
6 struction Cost Trends Index applicable to the types
7 of construction involved—

8 (A) for deposit in the MR&I System, Irri-
9 gation, and Water Storage Account of the
10 Blackfeet Water Settlement Implementation
11 Fund established under section 3717(b)(1),
12 \$163,500,000;

13 (B) for deposit in the Blackfeet Irrigation
14 Project Deferred Maintenance, Four Horns
15 Dam Safety, and Rehabilitation and Enhance-
16 ment of the Four Horns Feeder Canal, Dam,
17 and Reservoir Improvements Account of the
18 Blackfeet Water Settlement Implementation
19 Fund established under section 3717(b)(2),
20 \$54,900,000, of which—

21 (i) \$40,900,000 shall be made avail-
22 able for activities and projects under sec-
23 tion 3710(c); and

1 (ii) \$14,000,000 shall be made avail-
2 able for activities and projects under sec-
3 tion 3710(d)(2);

4 (C) for deposit in the St. Mary/Milk Water
5 Management and Activities Account of the
6 Blackfeet Water Settlement Implementation
7 Fund established under section 3717(b)(3),
8 \$28,100,000, of which—

9 (i) \$27,600,000 shall be allocated in
10 accordance with section 3707(g); and

11 (ii) \$500,000 shall be used to carry
12 out section 3705; and

13 (D) the amount of interest credited to the
14 unexpended amounts of the Blackfeet Water
15 Settlement Implementation Fund.

16 (b) ADJUSTMENTS.—

17 (1) IN GENERAL.—The adjustment of the
18 amounts authorized to be appropriated pursuant to
19 subsection (a)(1) shall occur each time an amount is
20 appropriated for an account and shall add to, or
21 subtract from, as applicable, the total amount au-
22 thorized.

23 (2) REPETITION.—The adjustment process
24 under this subsection shall be repeated for each sub-

1 sequent amount appropriated until the amount au-
2 thorized, as adjusted, has been appropriated.

3 (3) TREATMENT.—The amount of an adjust-
4 ment may be considered—

5 (A) to be authorized as of the date on
6 which congressional action occurs; and

7 (B) in determining the amount authorized
8 to be appropriated.

9 **SEC. 3719. WATER RIGHTS IN LEWIS AND CLARK NATIONAL**
10 **FOREST AND GLACIER NATIONAL PARK.**

11 The instream flow water rights of the Tribe on land
12 within the Lewis and Clark National Forest and Glacier
13 National Park—

14 (1) are confirmed; and

15 (2) shall be as described in the document enti-
16 tled “Stipulation to Address Claims by and for the
17 Benefit of the Blackfeet Indian Tribe to Water
18 Rights in the Lewis & Clark National Forest and
19 Glacier National Park” and as finally decreed by the
20 Montana Water Court, or, if the Montana Water
21 Court is found to lack jurisdiction, by the United
22 States district court with jurisdiction.

23 **SEC. 3720. WAIVERS AND RELEASES OF CLAIMS.**

24 (a) IN GENERAL.—

1 (1) WAIVER AND RELEASE OF CLAIMS BY
2 TRIBE AND UNITED STATES AS TRUSTEE FOR
3 TRIBE.—Subject to the reservation of rights and re-
4 tention of claims under subsection (c), as consider-
5 ation for recognition of the Tribal water rights and
6 other benefits as described in the Compact and this
7 subtitle, the Tribe, acting on behalf of the Tribe and
8 members of the Tribe (but not any member of the
9 Tribe as an allottee), and the United States, acting
10 as trustee for the Tribe and the members of the
11 Tribe (but not any member of the Tribe as an allot-
12 tee), shall execute a waiver and release of all claims
13 for water rights within the State that the Tribe, or
14 the United States acting as trustee for the Tribe, as-
15 serted or could have asserted in any proceeding, in-
16 cluding a State stream adjudication, on or before the
17 enforceability date, except to the extent that such
18 rights are recognized in the Compact and this sub-
19 title.

20 (2) WAIVER AND RELEASE OF CLAIMS BY
21 UNITED STATES AS TRUSTEE FOR ALLOTTEES.—
22 Subject to the reservation of rights and the retention
23 of claims under subsection (c), as consideration for
24 recognition of the Tribal water rights and other ben-
25 efits as described in the Compact and this subtitle,

1 the United States, acting as trustee for allottees,
2 shall execute a waiver and release of all claims for
3 water rights within the Reservation that the United
4 States, acting as trustee for the allottees, asserted or
5 could have asserted in any proceeding, including a
6 State stream adjudication, on or before the enforce-
7 ability date, except to the extent that such rights are
8 recognized in the Compact and this subtitle.

9 (3) WAIVER AND RELEASE OF CLAIMS BY
10 TRIBE AGAINST UNITED STATES.—Subject to the
11 reservation of rights and retention of claims under
12 subsection (d), the Tribe, acting on behalf of the
13 Tribe and members of the Tribe (but not any mem-
14 ber of the Tribe as an allottee), shall execute a waiv-
15 er and release of all claims against the United
16 States (including any agency or employee of the
17 United States)—

18 (A) relating to—

19 (i) water rights within the State that
20 the United States, acting as trustee for the
21 Tribe, asserted or could have asserted in
22 any proceeding, including a stream adju-
23 dication in the State, except to the extent
24 that such rights are recognized as Tribal
25 water rights under this subtitle;

1 (ii) damage, loss, or injury to water,
2 water rights, land, or natural resources
3 due to loss of water or water rights (in-
4 cluding damages, losses, or injuries to
5 hunting, fishing, gathering, or cultural
6 rights due to loss of water or water rights,
7 claims relating to interference with, diver-
8 sion, or taking of water, or claims relating
9 to failure to protect, acquire, replace, or
10 develop water, water rights, or water infra-
11 structure) within the State that first ac-
12 crued at any time on or before the enforce-
13 ability date;

14 (iii) a failure to establish or provide a
15 municipal rural or industrial water delivery
16 system on the Reservation;

17 (iv) a failure to provide for operation
18 or maintenance, or deferred maintenance,
19 for the Blackfeet Irrigation Project or any
20 other irrigation system or irrigation project
21 on the Reservation;

22 (v) the litigation of claims relating to
23 the water rights of the Tribe in the State;
24 and

1 (vi) the negotiation, execution, or
2 adoption of the Compact (including exhib-
3 its) or this subtitle;

4 (B) reserved in subsections (b) through (d)
5 of section 3706 of the settlement for the case
6 styled Blackfeet Tribe v. United States, No.
7 02–127L (Fed. Cl. 2012); and

8 (C) that first accrued at any time on or
9 before the enforceability date—

10 (i) arising from the taking or acquisi-
11 tion of the land of the Tribe or resources
12 for the construction of the features of the
13 St. Mary Unit of the Milk River Project;

14 (ii) relating to the construction, oper-
15 ation, and maintenance of the St. Mary
16 Unit of the Milk River Project, including
17 Sherburne Dam, St. Mary Diversion Dam,
18 St. Mary Canal and associated infrastruc-
19 ture, and the management of flows in
20 Swiftcurrent Creek, including the diversion
21 of Swiftcurrent Creek into Lower St. Mary
22 Lake;

23 (iii) relating to the construction, oper-
24 ation, and management of Lower Two
25 Medicine Dam and Reservoir and Four

1 Horns Dam and Reservoir, including any
2 claim relating to the failure to provide dam
3 safety improvements for Four Horns Res-
4 ervoir; or

5 (iv) relating to the allocation of
6 waters of the Milk River and St. Mary
7 River (including tributaries) between the
8 United States and Canada pursuant to the
9 International Boundary Waters Treaty of
10 1909 (36 Stat. 2448).

11 (b) EFFECTIVENESS.—The waivers and releases
12 under subsection (a) shall take effect on the enforceability
13 date.

14 (c) WITHDRAWAL OF OBJECTIONS.—The Tribe shall
15 withdraw all objections to the water rights claims filed by
16 the United States for the benefit of the Milk River Project,
17 except objections to those claims consolidated for adjudica-
18 tion within Basin 40J, within 14 days of the certification
19 under subsection (f)(5) that the Tribal membership has
20 approved the Compact and this subtitle.

21 (1) Prior to withdrawal of the objections, the
22 Tribe may seek leave of the Montana Water Court
23 for a right to reinstate the objections in the event
24 the conditions of enforceability in subsection (f)(1)

1 through (8) are not satisfied by the date of expira-
2 tion described in section 3723 of this subtitle.

3 (2) If the conditions of enforceability in sub-
4 section (f)(1) through (8) are satisfied, and any au-
5 thority the Montana Water Court may have granted
6 the Tribe to reinstate objections described in this
7 section has not yet expired, the Tribe shall notify
8 the Montana Water Court and the United States in
9 writing that it will not exercise any such authority.

10 (d) RESERVATION OF RIGHTS AND RETENTION OF
11 CLAIMS.—Notwithstanding the waivers and releases under
12 subsection (a), the Tribe, acting on behalf of the Tribe
13 and members of the Tribe, and the United States, acting
14 as trustee for the Tribe and allottees, shall retain—

15 (1) all claims relating to—

16 (A) enforcement of, or claims accruing
17 after the enforceability date relating to water
18 rights recognized under, the Compact, any final
19 decree, or this subtitle;

20 (B) activities affecting the quality of
21 water, including any claim under—

22 (i) the Comprehensive Environmental
23 Response, Compensation, and Liability Act
24 of 1980 (42 U.S.C. 9601 et seq.), includ-
25 ing damages to natural resources;

1 (ii) the Safe Drinking Water Act (42
2 U.S.C. 300f et seq.);

3 (iii) the Federal Water Pollution Con-
4 trol Act (33 U.S.C. 1251 et seq.) (com-
5 monly referred to as the “Clean Water
6 Act”); and

7 (iv) any regulations implementing the
8 Acts described in clauses (i) through (iii);
9 or

10 (C) damage, loss, or injury to land or nat-
11 ural resources that are not due to loss of water
12 or water rights (including hunting, fishing,
13 gathering, or cultural rights);

14 (2) all rights to use and protect water rights ac-
15 quired after the date of enactment of this Act; and

16 (3) all rights, remedies, privileges, immunities,
17 and powers not specifically waived and released pur-
18 suant to this subtitle or the Compact.

19 (e) EFFECT OF COMPACT AND SUBTITLE.—Nothing
20 in the Compact or this subtitle—

21 (1) affects the ability of the United States, act-
22 ing as a sovereign, to take any action authorized by
23 law (including any law relating to health, safety, or
24 the environment), including—

1 (A) the Comprehensive Environmental Re-
2 sponse, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9601 et seq.);

4 (B) the Safe Drinking Water Act (42
5 U.S.C. 300f et seq.);

6 (C) the Federal Water Pollution Control
7 Act (33 U.S.C. 1251 et seq.) (commonly re-
8 ferred to as the “Clean Water Act”); and

9 (D) any regulations implementing the Acts
10 described in subparagraphs (A) through (C);

11 (2) affects the ability of the United States to
12 act as trustee for any other Indian tribe or allottee
13 of any other Indian tribe;

14 (3) confers jurisdiction on any State court—

15 (A) to interpret Federal law regarding
16 health, safety, or the environment;

17 (B) to determine the duties of the United
18 States or any other party pursuant to a Federal
19 law regarding health, safety, or the environ-
20 ment; or

21 (C) to conduct judicial review of a Federal
22 agency action;

23 (4) waives any claim of a member of the Tribe
24 in an individual capacity that does not derive from
25 a right of the Tribe;

1 (5) revives any claim waived by the Tribe in the
2 case styled Blackfeet Tribe v. United States, No.
3 02–127L (Fed. Cl. 2012); or

4 (6) revives any claim released by an allottee or
5 a tribal member in the settlement for the case styled
6 Cobell v. Salazar, No. 1:96CV01285–JR (D.D.C.
7 2012).

8 (f) ENFORCEABILITY DATE.—The enforceability date
9 shall be the date on which the Secretary publishes in the
10 Federal Register a statement of findings that—

11 (1)(A) the Montana Water Court has approved
12 the Compact, and that decision has become final and
13 nonappealable; or

14 (B) if the Montana Water Court is found to
15 lack jurisdiction, the appropriate United States dis-
16 trict court has approved the Compact, and that deci-
17 sion has become final and nonappealable;

18 (2) all amounts authorized under section
19 3718(a) have been appropriated;

20 (3) the agreements required by sections
21 3706(c), 3707(f), and 3709(c) have been executed;

22 (4) the State has appropriated and paid into an
23 interest-bearing escrow account any payments due
24 as of the date of enactment of this Act to the Tribe

1 under the Compact, the Birch Creek Agreement, and
2 this subtitle;

3 (5) the members of the Tribe have voted to ap-
4 prove this subtitle and the Compact by a majority of
5 votes cast on the day of the vote, as certified by the
6 Secretary and the Tribe;

7 (6) the Secretary has fulfilled the requirements
8 of section 3709(a);

9 (7) the agreement or terms and conditions re-
10 ferred to in section 3705 are executed and final; and

11 (8) the waivers and releases described in sub-
12 section (a) have been executed by the Tribe and the
13 Secretary.

14 (g) TOLLING OF CLAIMS.—

15 (1) IN GENERAL.—Each applicable period of
16 limitation and time-based equitable defense relating
17 to a claim described in this section shall be tolled
18 during the period beginning on the date of enact-
19 ment of this Act and ending on the date on which
20 the amounts made available to carry out this subtitle
21 are transferred to the Secretary.

22 (2) EFFECT OF SUBSECTION.—Nothing in this
23 subsection revives any claim or tolls any period of
24 limitation or time-based equitable defense that ex-
25 pired before the date of enactment of this Act.

1 (h) EXPIRATION.—If all appropriations authorized by
2 this subtitle have not been made available to the Secretary
3 by January 21, 2026, or such alternative later date as
4 is agreed to by the Tribe and the Secretary, the waivers
5 and releases described in this section shall—

6 (1) expire; and

7 (2) have no further force or effect.

8 (i) VOIDING OF WAIVERS.—If the waivers and re-
9 leases described in this section are void under subsection
10 (h)—

11 (1) the approval of the United States of the
12 Compact under section 3704 shall no longer be ef-
13 fective;

14 (2) any unexpended Federal funds appropriated
15 or made available to carry out the activities author-
16 ized by this subtitle, together with any interest
17 earned on those funds, and any water rights or con-
18 tracts to use water and title to other property ac-
19 quired or constructed with Federal funds appro-
20 priated or made available to carry out the activities
21 authorized under this subtitle shall be returned to
22 the Federal Government, unless otherwise agreed to
23 by the Tribe and the United States and approved by
24 Congress; and

1 (3) except for Federal funds used to acquire or
2 develop property that is returned to the Federal
3 Government under paragraph (2), the United States
4 shall be entitled to offset any Federal funds appro-
5 priated or made available to carry out the activities
6 authorized under this subtitle that were expended or
7 withdrawn, together with any interest accrued,
8 against any claims against the United States relat-
9 ing to water rights in the State asserted by the
10 Tribe or any user of the Tribal water rights or in
11 any future settlement of the water rights of the
12 Tribe or an allottee.

13 **SEC. 3721. SATISFACTION OF CLAIMS.**

14 (a) **TRIBAL CLAIMS.**—The benefits realized by the
15 Tribe under this subtitle shall be in complete replacement
16 of, complete substitution for, and full satisfaction of all—

17 (1) claims of the Tribe against the United
18 States waived and released pursuant to section
19 3720(a); and

20 (2) objections withdrawn pursuant to section
21 3720(c).

22 (b) **ALLOTTEE CLAIMS.**—The benefits realized by the
23 allottees under this subtitle shall be in complete replace-
24 ment of, complete substitution for, and full satisfaction
25 of—

1 (1) all claims waived and released pursuant to
2 section 3720(a)(2); and

3 (2) any claim of an allottee against the United
4 States similar in nature to a claim described in sec-
5 tion 3720(a)(2) that the allottee asserted or could
6 have asserted.

7 **SEC. 3722. MISCELLANEOUS PROVISIONS.**

8 (a) **WAIVER OF SOVEREIGN IMMUNITY.**—Except as
9 provided in subsections (a) through (c) of section 208 of
10 the Department of Justice Appropriation Act, 1953 (43
11 U.S.C. 666), nothing in this subtitle waives the sovereign
12 immunity of the United States.

13 (b) **OTHER TRIBES NOT ADVERSELY AFFECTED.**—
14 Nothing in this subtitle quantifies or diminishes any land
15 or water right, or any claim or entitlement to land or
16 water, of an Indian tribe, band, or community other than
17 the Tribe.

18 (c) **LIMITATION ON CLAIMS FOR REIMBURSEMENT.**—
19 With respect to any Indian-owned land located within the
20 Reservation—

21 (1) the United States shall not submit against
22 that land any claim for reimbursement of the cost
23 to the United States of carrying out this subtitle or
24 the Compact; and

1 (2) no assessment of that land shall be made
2 regarding that cost.

3 (d) LIMITATION ON LIABILITY OF UNITED
4 STATES.—

5 (1) IN GENERAL.—The United States has no
6 obligation—

7 (A) to monitor, administer, or account for,
8 in any manner, any funds provided to the Tribe
9 by the State; or

10 (B) to review or approve any expenditure
11 of those funds.

12 (2) INDEMNITY.—The Tribe shall indemnify the
13 United States, and hold the United States harmless,
14 with respect to all claims (including claims for
15 takings or breach of trust) arising from the receipt
16 or expenditure of amounts described in this sub-
17 section.

18 (e) EFFECT ON CURRENT LAW.—Nothing in this sec-
19 tion affects any provision of law (including regulations)
20 in effect on the day before the date of enactment of this
21 Act with respect to preenforcement review of any Federal
22 environmental enforcement action.

23 (f) EFFECT ON RECLAMATION LAWS.—The activities
24 carried out by the Commissioner of Reclamation under
25 this subtitle shall not establish a precedent or impact the

1 authority provided under any other provision of the rec-
2 lamation laws, including—

3 (1) the Reclamation Rural Water Supply Act of
4 2006 (43 U.S.C. 2401 et seq.); and

5 (2) the Omnibus Public Land Management Act
6 of 2009 (Public Law 111–11; 123 Stat. 991).

7 (g) IRRIGATION EFFICIENCY IN UPPER BIRCH
8 CREEK DRAINAGE.—Any activity carried out by the Tribe
9 in the Upper Birch Creek Drainage (as defined in article
10 II.50 of the Compact) using funds made available to carry
11 out this subtitle shall achieve an irrigation efficiency of
12 not less than 50 percent.

13 (h) BIRCH CREEK AGREEMENT APPROVAL.—The
14 Birch Creek Agreement is approved to the extent that the
15 Birch Creek Agreement requires approval under section
16 2116 of the Revised Statutes (25 U.S.C. 177).

17 (i) LIMITATION ON EFFECT.—Nothing in this sub-
18 title or the Compact—

19 (1) makes an allocation or apportionment of
20 water between or among States; or

21 (2) addresses or implies whether, how, or to
22 what extent the Tribal water rights, or any portion
23 of the Tribal water rights, should be accounted for
24 as part of, or otherwise charged against, an alloca-

1 tion or apportionment of water made to a State in
2 an interstate allocation or apportionment.

3 **SEC. 3723. EXPIRATION ON FAILURE TO MEET ENFORCE-**
4 **ABILITY DATE.**

5 If the Secretary fails to publish a statement of find-
6 ings under section 3720(f) by not later than January 21,
7 2025, or such alternative later date as is agreed to by the
8 Tribe and the Secretary, after reasonable notice to the
9 State, as applicable—

10 (1) this subtitle expires effective on the later
11 of—

12 (A) January 22, 2025; and

13 (B) the day after such alternative later
14 date as is agreed to by the Tribe and the Sec-
15 retary;

16 (2) any action taken by the Secretary and any
17 contract or agreement entered into pursuant to this
18 subtitle shall be void;

19 (3) any amounts made available under section
20 3718, together with any interest on those amounts,
21 that remain unexpended shall immediately revert to
22 the general fund of the Treasury, except for any
23 funds made available under section 3716(e)(2) if the
24 Montana Water Court denies the Tribe's request to
25 reinstate the objections in section 3720(c); and

1 (4) the United States shall be entitled to offset
2 against any claims asserted by the Tribe against the
3 United States relating to water rights—

4 (A) any funds expended or withdrawn from
5 the amounts made available pursuant to this
6 subtitle; and

7 (B) any funds made available to carry out
8 the activities authorized by this subtitle from
9 other authorized sources, except for any funds
10 provided under section 3716(e)(2) if the Mon-
11 tana Water court denies the Tribe's request to
12 reinstate the objections in section 3720(c).

13 **SEC. 3724. ANTIDEFICIENCY.**

14 The United States shall not be liable for any failure
15 to carry out any obligation or activity authorized by this
16 subtitle (including any obligation or activity under the
17 Compact) if—

18 (1) adequate appropriations are not provided
19 expressly by Congress to carry out the purposes of
20 this subtitle; or

21 (2) there are not enough monies available to
22 carry out the purposes of this subtitle in the Rec-
23 lamation Water Settlements Fund established under
24 section 10501(a) of the Omnibus Public Land Man-
25 agement Act of 2009 (43 U.S.C. 407(a)).

1 **Subtitle H—Water Desalination**

2 **SEC. 3801. REAUTHORIZATION OF WATER DESALINATION**

3 **ACT OF 1996.**

4 (a) AUTHORIZATION OF RESEARCH AND STUDIES.—

5 Section 3 of the Water Desalination Act of 1996 (42
6 U.S.C. 10301 note; Public Law 104–298) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (6), by striking “and” at
9 the end;

10 (B) in paragraph (7), by striking the pe-
11 riod at the end and inserting a semicolon; and

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

13 “(8) development of metrics to analyze the
14 costs and benefits of desalination relative to other
15 sources of water (including costs and benefits related
16 to associated infrastructure, energy use, environ-
17 mental impacts, and diversification of water sup-
18 plies); and

19 “(9) development of design and siting specifica-
20 tions that avoid or minimize, adverse economic and
21 environmental impacts.”; and

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

23 “(e) PRIORITIZATION.—In carrying out this section,
24 the Secretary shall prioritize funding for research—

1 “(1) to reduce energy consumption and lower
2 the cost of desalination, including chloride control;

3 “(2) to reduce the environmental impacts of
4 seawater desalination and develop technology and
5 strategies to minimize those impacts;

6 “(3) to improve existing reverse osmosis and
7 membrane technology;

8 “(4) to carry out basic and applied research on
9 next generation desalination technologies, including
10 improved energy recovery systems and renewable en-
11 ergy-powered desalination systems that could signifi-
12 cantly reduce desalination costs;

13 “(5) to develop portable or modular desalina-
14 tion units capable of providing temporary emergency
15 water supplies for domestic or military deployment
16 purposes; and

17 “(6) to develop and promote innovative desali-
18 nation technologies, including chloride control, iden-
19 tified by the Secretary.”.

20 (b) DESALINATION DEMONSTRATION AND DEVELOP-
21 MENT.—Section 4 of the Water Desalination Act of 1996
22 (42 U.S.C. 10301 note; Public Law 104–298) is amended
23 by adding at the end the following:

1 “(c) PRIORITIZATION.—In carrying out demonstra-
2 tion and development activities under this section, the Sec-
3 retary shall prioritize projects—

4 “(1) for the benefit of drought-stricken States
5 and communities;

6 “(2) for the benefit of States that have author-
7 ized funding for research and development of desali-
8 nation technologies and projects;

9 “(3) that can reduce reliance on imported water
10 supplies that have an impact on species listed under
11 the Endangered Species Act of 1973 (16 U.S.C.
12 1531 et seq.); and

13 “(4) that demonstrably leverage the experience
14 of international partners with considerable expertise
15 in desalination, such as the State of Israel.

16 “(d) WATER PRODUCTION.—The Secretary shall pro-
17 vide, as part of the annual budget submission to Congress,
18 an estimate of how much water has been produced and
19 delivered in the past fiscal year using processes and facili-
20 ties developed or demonstrated using assistance provided
21 under sections 3 and 4. This submission shall include, to
22 the extent practicable, available information on a detailed
23 water accounting by process and facility and the cost per
24 acre foot of water produced and delivered.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
2 8 of the Water Desalination Act of 1996 (42 U.S.C. 10301
3 note; Public Law 104–298) is amended—

4 (1) in subsection (a), by striking “2013” and
5 inserting “2021”; and

6 (2) in subsection (b), by striking “for each of
7 fiscal years 2012 through 2013” and inserting “for
8 each of fiscal years 2017 through 2021”.

9 (d) CONSULTATION.—Section 9 of the Water Desali-
10 nation Act of 1996 (42 U.S.C. 10301 note; Public Law
11 104–298) is amended—

12 (1) by striking the section designation and
13 heading and all that follows through “In carrying
14 out” in the first sentence and inserting the fol-
15 lowing:

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

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

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

20 “(c) OTHER DESALINATION PROGRAMS.—The au-
21 thorization”; and

22 (3) by inserting after subsection (a) (as des-
23 igned by paragraph (1)) the following:

24 “(b) COORDINATION OF FEDERAL DESALINATION
25 RESEARCH AND DEVELOPMENT.—The White House Of-

1 fice of Science and Technology Policy shall develop a co-
2 ordinated strategic plan that—

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

5 “(2) coordinates the activities of Federal agen-
6 cies involved in desalination, including the Bureau of
7 Reclamation, the Corps of Engineers, the United
8 States Army Tank Automotive Research, Develop-
9 ment and Engineering Center, the National Science
10 Foundation, the Office of Naval Research of the De-
11 partment of Defense, the National Laboratories of
12 the Department of Energy, the United States Geo-
13 logical Survey, the Environmental Protection Agen-
14 cy, and the National Oceanic and Atmospheric Ad-
15 ministration;

16 “(3) strengthens research and development co-
17 operation with international partners, such as the
18 State of Israel, in the area of desalination tech-
19 nology; and

20 “(4) promotes public-private partnerships to de-
21 velop a framework for assessing needs for, and to
22 optimize siting and design of, future ocean desalina-
23 tion projects.”.

1 **Subtitle I—Amendments to the**
2 **Great Lakes Fish and Wildlife**
3 **Restoration Act of 1990**

4 **SEC. 3901. AMENDMENTS TO THE GREAT LAKES FISH AND**
5 **WILDLIFE RESTORATION ACT OF 1990.**

6 (a) REFERENCES.—Except as otherwise expressly
7 provided, wherever in this section an amendment is ex-
8 pressed in terms of an amendment to a section or other
9 provision, the reference shall be considered to be made to
10 a section or other provision of the Great Lakes Fish and
11 Wildlife Restoration Act of 1990 (16 U.S.C. 941 et seq.).

12 (b) FINDINGS.—The Act is amended by striking sec-
13 tion 1002 and inserting the following:

14 **“SEC. 1002. FINDINGS.**

15 “Congress finds that—

16 “(1) the Great Lakes have fish and wildlife
17 communities that are structurally and functionally
18 changing;

19 “(2) successful fish and wildlife management
20 focuses on the lakes as ecosystems, and effective
21 management requires the coordination and integra-
22 tion of efforts of many partners;

23 “(3) additional actions and better coordination
24 are needed to protect and effectively manage the fish

1 and wildlife resources, and the habitats on which the
2 resources depend, in the Great Lakes Basin; and

3 “(4) this Act allows Federal agencies, States,
4 and Indian tribes to work in an effective partnership
5 by providing the funding for restoration work.”.

6 (c) IDENTIFICATION, REVIEW, AND IMPLEMENTA-
7 TION OF PROPOSALS AND REGIONAL PROJECTS.—

8 (1) REQUIREMENTS FOR PROPOSALS AND RE-
9 GIONAL PROJECTS.—Section 1005(b)(2)(B) (16
10 U.S.C. 941c(b)(2)(B)) is amended—

11 (A) in clause (v), by striking “and” at the
12 end;

13 (B) in clause (vi), by striking the period at
14 the end and inserting a semicolon; and

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

16 “(vii) the strategic action plan of the
17 Great Lakes Restoration Initiative; and

18 “(viii) each applicable State wildlife
19 action plan.”.

20 (2) REVIEW OF PROPOSALS.—Section
21 1005(e)(2)(C) (16 U.S.C. 941c(e)(2)(C)) is amended
22 by striking “Great Lakes Coordinator of the”.

23 (3) COST SHARING.—Section 1005(e) (16
24 U.S.C. 941c(e)) is amended—

25 (A) in paragraph (1)—

1 (i) by striking “Except as provided in
2 paragraphs (2) and (4), not less than 25
3 percent of the cost of implementing a pro-
4 posal” and inserting the following:

5 “(A) NON-FEDERAL SHARE.—Except as
6 provided in paragraphs (3) and (5) and subject
7 to paragraph (2), not less than 25 percent of
8 the cost of implementing a proposal or regional
9 project”; and

10 (ii) by adding at the end the fol-
11 lowing:

12 “(B) TIME PERIOD FOR PROVIDING
13 MATCH.—The non-Federal share of the cost of
14 implementing a proposal or regional project re-
15 quired under subparagraph (A) may be pro-
16 vided at any time during the 2-year period pre-
17 ceeding January 1 of the year in which the Di-
18 rector receives the application for the proposal
19 or regional project.”;

20 (B) by redesignating paragraphs (2)
21 through (4) as paragraphs (3) through (5), re-
22 spectively; and

23 (C) by inserting before paragraph (3) (as
24 so redesignated) the following:

1 “(2) AUTHORIZED SOURCES OF NON-FEDERAL
2 SHARE.—

3 “(A) IN GENERAL.—The Director may de-
4 termine the non-Federal share under paragraph
5 (1) by taking into account—

6 “(i) the appraised value of land or a
7 conservation easement as described in sub-
8 paragraph (B); or

9 “(ii) as described in subparagraph
10 (C), the costs associated with—

11 “(I) securing a conservation ease-
12 ment; and

13 “(II) restoration or enhancement
14 of the conservation easement.

15 “(B) APPRAISAL OF CONSERVATION EASE-
16 MENT.—

17 “(i) IN GENERAL.—The value of a
18 conservation easement may be used to sat-
19 isfy the non-Federal share of the cost of
20 implementing a proposal or regional
21 project required under paragraph (1)(A) if
22 the Director determines that the conserva-
23 tion easement—

24 “(I) meets the requirements of
25 subsection (b)(2);

1 “(II) is acquired before the end
2 of the grant period of the proposal or
3 regional project;

4 “(III) is held in perpetuity for
5 the conservation purposes of the pro-
6 grams of the United States Fish and
7 Wildlife Service related to the Great
8 Lakes Basin, as described in section
9 1006, by an accredited land trust or
10 conservancy or a Federal, State, or
11 tribal agency;

12 “(IV) is connected either phys-
13 ically or through a conservation plan-
14 ning process to the proposal or re-
15 gional project; and

16 “(V) is appraised in accordance
17 with clause (ii).

18 “(ii) APPRAISAL.—With respect to the
19 appraisal of a conservation easement de-
20 scribed in clause (i)—

21 “(I) the appraisal valuation date
22 shall be not later than 1 year after
23 the price of the conservation easement
24 was set under a contract; and

25 “(II) the appraisal shall—

1 “(aa) conform to the Uni-
2 form Standards of Professional
3 Appraisal Practice (USPAP);
4 and

5 “(bb) be completed by a
6 Federal- or State-certified ap-
7 praiser.

8 “(C) COSTS OF SECURING CONSERVATION
9 EASEMENTS.—

10 “(i) IN GENERAL.—All costs associ-
11 ated with securing a conservation easement
12 and restoration or enhancement of that
13 conservation easement may be used to sat-
14 isfy the non-Federal share of the cost of
15 implementing a proposal or regional
16 project required under paragraph (1)(A) if
17 the activities and expenses associated with
18 securing the conservation easement and
19 restoration or enhancement of that con-
20 servation easement meet the requirements
21 of subparagraph (B)(i).

22 “(ii) INCLUSION.—The costs referred
23 to in clause (i) may include cash, in-kind
24 contributions, and indirect costs.

1 “(iii) EXCLUSION.—The costs referred
2 to in clause (i) may not be costs associated
3 with mitigation or litigation (other than
4 costs associated with the Natural Resource
5 Damage Assessment program).”.

6 (d) ESTABLISHMENT OF OFFICES.—Section 1007
7 (16 U.S.C. 941e) is amended—

8 (1) in subsection (b)—

9 (A) in the subsection heading, by striking
10 “FISHERY RESOURCES” and inserting “FISH
11 AND WILDLIFE CONSERVATION”; and

12 (B) by striking “Fishery Resources” each
13 place it appears and inserting “Fish and Wild-
14 life Conservation”;

15 (2) in subsection (c)—

16 (A) in the subsection heading, by striking
17 “FISHERY RESOURCES” and inserting “FISH
18 AND WILDLIFE CONSERVATION”; and

19 (B) by striking “Fishery Resources” each
20 place it appears and inserting “Fish and Wild-
21 life Conservation”;

22 (3) by striking subsection (a); and

23 (4) by redesignating subsections (b) and (c) as
24 subsections (a) and (b), respectively.

1 (e) REPORTS.—Section 1008 (16 U.S.C. 941f) is
2 amended—

3 (1) in subsection (a), in the matter preceding
4 paragraph (1), by striking “2011” and inserting
5 “2021”;

6 (2) in subsection (b)—

7 (A) in the matter preceding paragraph (1),
8 by striking “2007 through 2012” and inserting
9 “2016 through 2020”; and

10 (B) in paragraph (5), by inserting “the
11 Great Lakes Restoration Initiative Action Plan
12 based on” after “in support of”; and

13 (3) by striking subsection (c) and inserting the
14 following:

15 “(c) CONTINUED MONITORING AND ASSESSMENT OF
16 STUDY FINDINGS AND RECOMMENDATIONS.—The Direc-
17 tor—

18 “(1) shall continue to monitor the status, and
19 the assessment, management, and restoration needs,
20 of the fish and wildlife resources of the Great Lakes
21 Basin; and

22 “(2) may reassess and update, as necessary, the
23 findings and recommendations of the Report.”.

24 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
25 1009 (16 U.S.C. 941g) is amended—

1 (1) in the matter preceding paragraph (1), by
2 striking “2007 through 2012” and inserting “2016
3 through 2021”;

4 (2) in paragraph (1)—

5 (A) in the matter preceding subparagraph
6 (A), by striking “\$14,000,000” and inserting
7 “\$6,000,000”;

8 (B) in subparagraph (A), by striking
9 “\$4,600,000” and inserting “\$2,000,000”; and

10 (C) in subparagraph (B), by striking
11 “\$700,000” and inserting “\$300,000”; and

12 (3) in paragraph (2), by striking “the activities
13 of” and all that follows through “section 1007” and
14 inserting “the activities of the Upper Great Lakes
15 Fish and Wildlife Conservation Offices and the
16 Lower Great Lakes Fish and Wildlife Conservation
17 Office under section 1007”.

18 (g) PROHIBITION ON USE OF FUNDS FOR FEDERAL
19 ACQUISITION OF INTERESTS IN LAND.—Section 1009 (16
20 U.S.C. 941g) is further amended—

21 (1) by inserting before the sentence the fol-
22 lowing:

23 “(a) AUTHORIZATION.—”; and

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

1 “(b) PROHIBITION ON USE OF FUNDS FOR FEDERAL
2 ACQUISITION OF INTERESTS IN LAND.—No funds appro-
3 priated or used to carry out this Act may be used for ac-
4 quisition by the Federal Government of any interest in
5 land.”.

6 (h) CONFORMING AMENDMENT.—Section 8 of the
7 Great Lakes Fish and Wildlife Restoration Act of 2006
8 (16 U.S.C. 941 note; Public Law 109–326) is repealed.

9 **Subtitle J—California Water**

10 **SEC. 4001. OPERATIONS AND REVIEWS.**

11 (a) WATER SUPPLIES.—The Secretary of the Interior
12 and Secretary of Commerce shall provide the maximum
13 quantity of water supplies practicable to Central Valley
14 Project agricultural, municipal and industrial contractors,
15 water service or repayment contractors, water rights set-
16 tlement contractors, exchange contractors, refuge contrac-
17 tors, and State Water Project contractors, by approving,
18 in accordance with applicable Federal and State laws (in-
19 cluding regulations), operations or temporary projects to
20 provide additional water supplies as quickly as possible,
21 based on available information.

22 (b) ADMINISTRATION.—In carrying out subsection
23 (a), the Secretary of the Interior and Secretary of Com-
24 merce shall, consistent with applicable laws (including reg-
25 ulations)—

1 (1)(A) in close coordination with the California
2 Department of Water Resources and the California
3 Department of Fish and Wildlife, implement a pilot
4 project to test and evaluate the ability to operate the
5 Delta cross-channel gates daily or as otherwise may
6 be appropriate to keep them open to the greatest ex-
7 tent practicable to protect out-migrating salmonids,
8 manage salinities in the interior Delta and any other
9 water quality issues, and maximize Central Valley
10 Project and State Water Project pumping, subject to
11 the condition that the pilot project shall be designed
12 and implemented consistent with operational criteria
13 and monitoring criteria required by the California
14 State Water Resources Control Board; and

15 (B) design, implement, and evaluate such real-
16 time monitoring capabilities to enable effective real-
17 time operations of the cross channel in order effi-
18 ciently to meet the objectives described in subpara-
19 graph (A);

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

23 (A) species listed as threatened or endan-
24 gered under the Endangered Species Act of
25 1973 (16 U.S.C. 1531 et seq.);

1 (B) water quality; and

2 (C) water supply benefits;

3 (3) collaborate with the California Department
4 of Water Resources to install a deflection barrier at
5 Georgiana Slough and the Delta Cross Channel Gate
6 to protect migrating salmonids, consistent with
7 knowledge gained from activities carried out during
8 2014 and 2015;

9 (4) upon completion of the pilot project in para-
10 graph (1), submit to the Senate Committees on En-
11 ergy and Natural Resources and Environment and
12 Public Works and the House Committee on Natural
13 Resources a written notice and explanation on the
14 extent to which the gates are able to remain open
15 and the pilot project achieves all the goals set forth
16 in paragraphs (1) through (3);

17 (5) implement turbidity control strategies that
18 may allow for increased water deliveries while avoid-
19 ing jeopardy to adult Delta smelt (*Hypomesus*
20 *transpacificus*);

21 (6) in a timely manner, evaluate any proposal
22 to increase flow in the San Joaquin River through
23 a voluntary sale, transfer, or exchange of water from
24 an agency with rights to divert water from the San
25 Joaquin River or its tributaries;

1 (7) adopt a 1:1 inflow to export ratio for the in-
2 crement of increased flow, as measured as a 3-day
3 running average at Vernalis during the period from
4 April 1 through May 31, that results from the vol-
5 untary sale, transfer, or exchange, unless the Sec-
6 retary of the Interior and Secretary of Commerce
7 determine in writing that a 1:1 inflow to export ratio
8 for that increment of increased flow will cause addi-
9 tional adverse effects on listed salmonid species be-
10 yond the range of the effects anticipated to occur to
11 the listed salmonid species for the duration of the
12 salmonid biological opinion using the best scientific
13 and commercial data available; and subject to the
14 condition that any individual sale, transfer, or ex-
15 change using a 1:1 inflow to export ratio adopted
16 under the authority of this section may only proceed
17 if—

18 (A) the Secretary of the Interior deter-
19 mines that the environmental effects of the pro-
20 posed sale, transfer, or exchange are consistent
21 with effects permitted under applicable law (in-
22 cluding the Endangered Species Act of 1973
23 (16 U.S.C. 1531 et seq.), the Federal Water
24 Pollution Control Act (33 U.S.C. 1381 et seq.),

1 and the Porter-Cologne Water Quality Control
2 Act (California Water Code 13000 et seq.);

3 (B) Delta conditions are suitable to allow
4 movement of the acquired, transferred, or ex-
5 changed water through the Delta consistent
6 with existing Central Valley Project and State
7 Water Project permitted water rights and the
8 requirements of subsection (a)(1)(H) of the
9 Central Valley Project Improvement Act; and

10 (C) such voluntary sale, transfer, or ex-
11 change of water results in flow that is in addi-
12 tion to flow that otherwise would occur in the
13 absence of the voluntary sale, transfer, or ex-
14 change;

15 (8)(A) issue all necessary permit decisions dur-
16 ing emergency consultation under the authority of
17 the Secretary of the Interior and Secretary of Com-
18 merce not later than 60 days after receiving a com-
19 pleted application by the State to place and use tem-
20 porary barriers or operable gates in Delta channels
21 to improve water quantity and quality for State
22 Water Project and Central Valley Project south-of-
23 Delta water contractors and other water users,
24 which barriers or gates shall provide benefits for
25 species protection and in-Delta water user water

1 quality, provided that they are designed so that, if
2 practicable, formal consultations under section 7 of
3 the Endangered Species Act of 1973 (16 U.S.C.
4 1536) are not necessary; and

5 (B) take longer to issue the permit decisions in
6 subparagraph (A) only if the Secretary determines
7 in writing that an Environmental Impact Statement
8 is needed for the proposal to comply with the Na-
9 tional Environmental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.);

11 (9) allow and facilitate, consistent with existing
12 priorities, water transfers through the C.W. “Bill”
13 Jones Pumping Plant or the Harvey O. Banks
14 Pumping Plant from April 1 to November 30;

15 (10) require the Director of the United States
16 Fish and Wildlife Service and the Commissioner of
17 Reclamation to—

18 (A) determine if a written transfer pro-
19 posal is complete within 30 days after the date
20 of submission of the proposal. If the contracting
21 district or agency or the Secretary determines
22 that the proposal is incomplete, the district or
23 agency or the Secretary shall state with speci-
24 ficity what must be added to or revised for the
25 proposal to be complete;

1 (B) complete all requirements under the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.) and the Endangered Spe-
4 cies Act of 1973 (16 U.S.C. et seq.) necessary
5 to make final permit decisions on water transfer
6 requests in the State, not later than 45 days
7 after receiving a completed request;

8 (C) take longer to issue the permit deci-
9 sions in subparagraph (B) only if the Secretary
10 determines in writing that an Environmental
11 Impact Statement is needed for the proposal to
12 comply with the National Environmental Policy
13 Act of 1969 (42 U.S.C. et seq.), or that the ap-
14 plication is incomplete pursuant to subpara-
15 graph (A); and

16 (D) approve any water transfer request de-
17 scribed in subparagraph (A) to maximize the
18 quantity of water supplies on the condition that
19 actions associated with the water transfer are
20 consistent with—

21 (i) existing Central Valley Project and
22 State Water Project permitted water rights
23 and the requirements of section
24 3405(a)(1)(H) of the Central Valley
25 Project Improvement Act; and

1 (ii) all other applicable laws and regu-
2 lations;

3 (11) in coordination with the Secretary of Agri-
4 culture, enter into an agreement with the National
5 Academy of Sciences to conduct a comprehensive
6 study, to be completed not later than 1 year after
7 the date of enactment of this subtitle, on the effec-
8 tiveness and environmental impacts of salt cedar bio-
9 logical control efforts on increasing water supplies
10 and improving riparian habitats of the Colorado
11 River and its principal tributaries, in the State of
12 California and elsewhere;

13 (12) pursuant to the research and adaptive
14 management procedures of the smelt biological opin-
15 ion and the salmonid biological opinion use all avail-
16 able scientific tools to identify any changes to the
17 real-time operations of Bureau of Reclamation,
18 State, and local water projects that could result in
19 the availability of additional water supplies; and

20 (13) determine whether alternative operational
21 or other management measures would meet applica-
22 ble regulatory requirements for listed species while
23 maximizing water supplies and water supply reli-
24 ability; and

1 (14) continue to vary the averaging period of
2 the Delta Export/Inflow ratio, to the extent con-
3 sistent with any applicable State Water Resources
4 Control Board orders under decision D-1641, to op-
5 erate to a

6 (A) ratio using a 3-day averaging period
7 on the rising limb of a Delta inflow hydrograph;
8 and

9 (B) 14-day averaging period on the falling
10 limb of the Delta inflow hydrograph.

11 (c) OTHER AGENCIES.—To the extent that a Federal
12 agency other than the Department of the Interior and the
13 Department of Commerce has a role in approving projects
14 described in subsections (a) and (b), this section shall
15 apply to the Federal agency.

16 (d) ACCELERATED PROJECT DECISION AND ELE-
17 VATION.—

18 (1) IN GENERAL.—On request of the Governor
19 of California, the Secretary of the Interior and Sec-
20 retary of Commerce shall use the expedited proce-
21 dures under this subsection to make final decisions
22 relating to Federal or federally approved projects or
23 operational changes proposed pursuant to sub-
24 sections (a) and (b) to provide additional water sup-

1 plies or otherwise address emergency drought condi-
2 tions.

3 (2) REQUEST FOR RESOLUTION.—Not later
4 than 7 days after receiving a request of the Gov-
5 ernor of California, the Secretaries referred to in
6 paragraph (1), or the head of another Federal agen-
7 cy responsible for carrying out a review of a project,
8 as applicable, the Secretary of the Interior shall con-
9 vene a final project decision meeting with the heads
10 of all relevant Federal agencies to decide whether to
11 approve a project to provide emergency water sup-
12 plies or otherwise address emergency drought condi-
13 tion.

14 (3) NOTIFICATION.—Upon receipt of a request
15 for a meeting under this subsection, the Secretary of
16 the Interior shall notify the heads of all relevant
17 Federal agencies of the request, including a descrip-
18 tion of the project to be reviewed and the date for
19 the meeting.

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

24 (2) MEETING CONVENED BY SECRETARY.—The
25 Secretary of the Interior may convene a final project

1 decision meeting under this subsection at any time,
2 at the discretion of the Secretary, regardless of
3 whether a meeting is requested under paragraph (2).

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

6 (A) proposed new Federal projects or oper-
7 ational changes pursuant to subsection (a) or
8 (b); and

9 (B) the extent they are consistent with ap-
10 plicable laws (including regulations).

11 (e) OPERATIONS PLAN.—The Secretaries of Com-
12 merce and the Interior, in consultation with appropriate
13 State officials, shall develop an operations plan that is
14 consistent with the provisions of this subtitle and other
15 applicable Federal and State laws, including provisions
16 that are intended to provide additional water supplies that
17 could be of assistance during the current drought.

18 **SEC. 4002. SCIENTIFICALLY SUPPORTED IMPLEMENTATION**
19 **OF OMR FLOW REQUIREMENTS.**

20 (a) IN GENERAL.—In implementing the provisions of
21 the smelt biological opinion and the salmonid biological
22 opinion, the Secretary of the Interior and the Secretary
23 of Commerce shall manage reverse flow in Old and Middle
24 Rivers at the most negative reverse flow rate allowed
25 under the applicable biological opinion to maximize water

1 supplies for the Central Valley Project and the State
2 Water Project, unless that management of reverse flow in
3 Old and Middle Rivers to maximize water supplies would
4 cause additional adverse effects on the listed fish species
5 beyond the range of effects anticipated to occur to the list-
6 ed fish species for the duration of the applicable biological
7 opinion, or would be inconsistent with applicable State law
8 requirements, including water quality, salinity control, and
9 compliance with State Water Resources Control Board
10 Order D-1641 or a successor order.

11 (b) REQUIREMENTS.—If the Secretary of the Interior
12 or Secretary of Commerce determines to manage rates of
13 pumping at the C.W. “Bill” Jones and the Harvey O.
14 Banks pumping plants in the southern Delta to achieve
15 a reverse OMR flow rate less negative than the most nega-
16 tive reverse flow rate prescribed by the applicable biologi-
17 cal opinion, the Secretary shall—

18 (1) document in writing any significant facts
19 regarding real-time conditions relevant to the deter-
20 minations of OMR reverse flow rates, including—

21 (A) targeted real-time fish monitoring in
22 the Old River pursuant to this section, includ-
23 ing as it pertains to the smelt biological opinion
24 monitoring of Delta smelt in the vicinity of Sta-
25 tion 902;

1 (B) near-term forecasts with available sal-
2 vage models under prevailing conditions of the
3 effects on the listed species of OMR flow at the
4 most negative reverse flow rate prescribed by
5 the biological opinion; and

6 (C) any requirements under applicable
7 State law; and

8 (2) explain in writing why any decision to man-
9 age OMR reverse flow at rates less negative than the
10 most negative reverse flow rate prescribed by the bi-
11 ological opinion is necessary to avoid additional ad-
12 verse effects on the listed fish species beyond the
13 range of effects anticipated to occur to the listed fish
14 species for the duration of the applicable biological
15 opinion, after considering relevant factors such as—

16 (A) the distribution of the listed species
17 throughout the Delta;

18 (B) the potential effects of high entrain-
19 ment risk on subsequent species abundance;

20 (C) the water temperature;

21 (D) other significant factors relevant to
22 the determination, as required by applicable
23 Federal or State laws;

24 (E) turbidity; and

1 (F) whether any alternative measures
2 could have a substantially lesser water supply
3 impact.

4 (c) LEVEL OF DETAIL REQUIRED.—The analyses
5 and documentation required by this section shall be com-
6 parable to the depth and complexity as is appropriate for
7 real time decision-making. This section shall not be inter-
8 preted to require a level of administrative findings and
9 documentation that could impede the execution of effective
10 real time adaptive management.

11 (d) FIRST SEDIMENT FLUSH.—During the first flush
12 of sediment out of the Delta in each water year, and pro-
13 vided that such determination is based upon objective evi-
14 dence, notwithstanding subsection (a), the Secretary of
15 the Interior shall manage OMR flow pursuant to the provi-
16 sions of the smelt biological opinion that protects adult
17 Delta smelt from the first flush if required to do so by
18 the smelt biological opinion.

19 (e) CONSTRUCTION.—The Secretary of the Interior
20 and the Secretary of Commerce are authorized to imple-
21 ment subsection (a) consistent with the results of moni-
22 toring through Early Warning Surveys to make real time
23 operational decisions consistent with the current applica-
24 ble biological opinion.

1 (f) CALCULATION OF REVERSE FLOW IN OMR.—
2 Within 180 days of the enactment of this subtitle, the Sec-
3 retary of the Interior is directed, in consultation with the
4 California Department of Water Resources, and consistent
5 with the smelt biological opinion and the salmonid biologi-
6 cal opinion, to review, modify, and implement, if appro-
7 priate, the method used to calculate reverse flow in Old
8 and Middle Rivers, for implementation of the reasonable
9 and prudent alternatives in the smelt biological opinion
10 and the salmonid biological opinion, and any succeeding
11 biological opinions.

12 **SEC. 4003. TEMPORARY OPERATIONAL FLEXIBILITY FOR**
13 **STORM EVENTS.**

14 (a) IN GENERAL.—

15 (1) Nothing in this subtitle authorizes addi-
16 tional adverse effects on listed species beyond the
17 range of the effects anticipated to occur to the listed
18 species for the duration of the smelt biological opin-
19 ion or salmonid biological opinion, using the best sci-
20 entific and commercial data available.

21 (2) When consistent with the environmental
22 protection mandate in paragraph (1) while maxi-
23 mizing water supplies for Central Valley Project and
24 State Water Project contractors, the Secretary of
25 the Interior and the Secretary of Commerce,

1 through an operations plan, shall evaluate and may
2 authorize the Central Valley Project and the State
3 Water Project, combined, to operate at levels that
4 result in OMR flows more negative than the most
5 negative reverse flow rate prescribed by the applica-
6 ble biological opinion (based on United States Geo-
7 logical Survey gauges on Old and Middle Rivers)
8 daily average as described in subsections (b) and (c)
9 to capture peak flows during storm-related events.

10 (b) FACTORS TO BE CONSIDERED.—In determining
11 additional adverse effects on any listed fish species beyond
12 the range of effects anticipated to occur to the listed fish
13 species for the duration of the smelt biological opinion or
14 salmonid biological opinion, using the best scientific and
15 commercial data available, the Secretaries of the Interior
16 and Commerce may consider factors including:

17 (1) The degree to which the Delta outflow index
18 indicates a higher level of flow available for diver-
19 sion.

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

22 (3) The real-time distribution of listed species.

23 (c) OTHER ENVIRONMENTAL PROTECTIONS.—

24 (1) STATE LAW.—The actions of the Secretary
25 of the Interior and the Secretary of Commerce under

1 this section shall be consistent with applicable regu-
2 latory requirements under State law.

3 (2) FIRST SEDIMENT FLUSH.—During the first
4 flush of sediment out of the Delta in each water
5 year, and provided that such determination is based
6 upon objective evidence, the Secretary of the Interior
7 shall manage OMR flow pursuant to the portion of
8 the smelt biological opinion that protects adult Delta
9 smelt from the first flush if required to do so by the
10 smelt biological opinion.

11 (3) APPLICABILITY OF OPINION.—This section
12 shall not affect the application of the salmonid bio-
13 logical opinion from April 1 to May 31, unless the
14 Secretary of Commerce finds that some or all of
15 such applicable requirements may be adjusted dur-
16 ing this time period to provide emergency water sup-
17 ply relief without resulting in additional adverse ef-
18 fects on listed salmonid species beyond the range of
19 the effects anticipated to occur to the listed
20 salmonid species for the duration of the salmonid bi-
21 ological opinion using the best scientific and com-
22 mercial data available. In addition to any other ac-
23 tions to benefit water supply, the Secretary of the
24 Interior and the Secretary of Commerce shall con-
25 sider allowing through-Delta water transfers to

1 occur during this period if they can be accomplished
2 consistent with section 3405(a)(1)(H) of the Central
3 Valley Project Improvement Act and other applicable
4 law. Water transfers solely or exclusively through
5 the State Water Project are not required to be con-
6 sistent with subsection (a)(1)(H) of the Central Val-
7 ley Project Improvement Act.

8 (4) MONITORING.—During operations under
9 this section, the Commissioner of Reclamation, in
10 coordination with the Fish and Wildlife Service, Na-
11 tional Marine Fisheries Service, and California De-
12 partment of Fish and Wildlife, shall undertake ex-
13 panded monitoring programs and other data gath-
14 ering to improve the efficiency of operations for list-
15 ed species protections and Central Valley Project
16 and State Water Project water supply to ensure inci-
17 dental take levels are not exceeded, and to identify
18 potential negative impacts, if any.

19 (d) EFFECT OF HIGH OUTFLOWS.—When exercising
20 their authorities to capture peak flows pursuant to sub-
21 section (c), the Secretary of the Interior and the Secretary
22 of Commerce shall not count such days toward the 5-day
23 and 14-day running averages of tidally filtered daily Old
24 and Middle River flow requirements under the smelt bio-
25 logical opinion and salmonid biological opinion, unless

1 doing so is required to avoid additional adverse effects on
2 listed fish species beyond those anticipated to occur
3 through implementation of the smelt biological opinion
4 and salmonid biological opinion using the best scientific
5 and commercial data available.

6 (e) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—
7 In articulating the determinations required under this sec-
8 tion, the Secretary of the Interior and the Secretary of
9 Commerce shall fully satisfy the requirements herein but
10 shall not be expected to provide a greater level of sup-
11 porting detail for the analysis than feasible to provide
12 within the short timeframe permitted for timely real-time
13 decisionmaking in response to changing conditions in the
14 Delta.

15 **SEC. 4004. CONSULTATION ON COORDINATED OPERATIONS.**

16 (a) RESOLUTION OF WATER RESOURCE ISSUES.—In
17 furtherance of the policy established by section 2(c)(2) of
18 the Endangered Species Act of 1973, that Federal agen-
19 cies shall cooperate with State and local agencies to re-
20 solve water resource issues in concert with conservation
21 of endangered species, in any consultation or reconsulta-
22 tion on the coordinated operations of the Central Valley
23 Project and the State Water Project, the Secretaries of
24 the Interior and Commerce shall ensure that any public
25 water agency that contracts for the delivery of water from

1 the Central Valley Project or the State Water Project that
2 so requests shall—

3 (1) have routine and continuing opportunities
4 to discuss and submit information to the action
5 agency for consideration during the development of
6 any biological assessment;

7 (2) be informed by the action agency of the
8 schedule for preparation of a biological assessment;

9 (3) be informed by the consulting agency, the
10 U.S. Fish and Wildlife Service or the National Ma-
11 rine Fisheries Service, of the schedule for prepara-
12 tion of the biological opinion at such time as the bio-
13 logical assessment is submitted to the consulting
14 agency by the action agency;

15 (4) receive a copy of any draft biological opin-
16 ion and have the opportunity to review that docu-
17 ment and provide comment to the consulting agency
18 through the action agency, which comments will be
19 afforded due consideration during the consultation;

20 (5) have the opportunity to confer with the ac-
21 tion agency and applicant, if any, about reasonable
22 and prudent alternatives prior to the action agency
23 or applicant identifying one or more reasonable and
24 prudent alternatives for consideration by the con-
25 sulting agency; and

1 (6) where the consulting agency suggests a rea-
2 sonable and prudent alternative be informed—

3 (A) how each component of the alternative
4 will contribute to avoiding jeopardy or adverse
5 modification of critical habitat and the scientific
6 data or information that supports each compo-
7 nent of the alternative; and

8 (B) why other proposed alternative actions
9 that would have fewer adverse water supply and
10 economic impacts are inadequate to avoid jeop-
11 ardy or adverse modification of critical habitat.

12 (b) INPUT.—When consultation is ongoing, the Secre-
13 taries of the Interior and Commerce shall regularly solicit
14 input from and report their progress to the Collaborative
15 Adaptive Management Team and the Collaborative
16 Science and Adaptive Management Program policy group.
17 The Collaborative Adaptive Management Team and the
18 Collaborative Science and Adaptive Management Program
19 policy group may provide the Secretaries with rec-
20 ommendations to improve the effects analysis and Federal
21 agency determinations. The Secretaries shall give due con-
22 sideration to the recommendations when developing the
23 Biological Assessment and Biological Opinion.

24 (c) MEETINGS.—The Secretaries shall establish a
25 quarterly stakeholder meeting during any consultation or

1 reconsultation for the purpose of providing updates on the
2 development of the Biological Assessment and Biological
3 Opinion. The quarterly stakeholder meeting shall be open
4 to stakeholders identified by the Secretaries representing
5 a broad range of interests including environmental, rec-
6 reational and commercial fishing, agricultural, municipal,
7 Delta, and other regional interests, and including stake-
8 holders that are not state or local agencies.

9 (d) CLARIFICATION.—Neither subsection (b) or (c) of
10 this section may be used to meet the requirements of sub-
11 section (a).

12 (e) NON-APPLICABILITY OF FACCA.—For the pur-
13 poses of subsection (b), the Collaborative Adaptive Man-
14 agement Team, the Collaborative Science and Adaptive
15 Management Program policy group, and any recommenda-
16 tions made to the Secretaries, are exempt from the Fed-
17 eral Advisory Committee Act.

18 **SEC. 4005. PROTECTIONS.**

19 (a) APPLICABILITY.—This section shall apply only to
20 sections 4001 through 4006.

21 (b) OFFSET FOR STATE WATER PROJECT.—

22 (1) IMPLEMENTATION IMPACTS.—The Sec-
23 retary of the Interior shall confer with the California
24 Department of Fish and Wildlife in connection with
25 the implementation of the applicable provisions of

1 this subtitle on potential impacts to any consistency
2 determination for operations of the State Water
3 Project issued pursuant to California Fish and
4 Game Code section 2080.1.

5 (2) ADDITIONAL YIELD.—If, as a result of the
6 application of the applicable provisions of this sub-
7 title, the California Department of Fish and Wild-
8 life—

9 (A) determines that operations of the State
10 Water Project are inconsistent with the consist-
11 ency determinations issued pursuant to Cali-
12 fornia Fish and Game Code section 2080.1 for
13 operations of the State Water Project; or

14 (B) requires take authorization under Cali-
15 fornia Fish and Game Code section 2081 for
16 operation of the State Water Project;

17 in a manner that directly or indirectly results in re-
18 duced water supply to the State Water Project as
19 compared with the water supply available under the
20 smelt biological opinion and the salmonid biological
21 opinion; and as a result, Central Valley Project yield
22 is greater than it otherwise would have been, then
23 that additional yield shall be made available to the
24 State Water Project for delivery to State Water
25 Project contractors to offset that reduced water sup-

1 ply, provided that if it is necessary to reduce water
2 supplies for any Central Valley Project authorized
3 uses or contractors to make available to the State
4 Water Project that additional yield, such reductions
5 shall be applied proportionately to those uses or con-
6 tractors that benefit from that increased yield.

7 (3) NOTIFICATION RELATED TO ENVIRON-
8 MENTAL PROTECTIONS.—The Secretary of the Inte-
9 rior and Secretary of Commerce shall—

10 (A) notify the Director of the California
11 Department of Fish and Wildlife regarding any
12 changes in the manner in which the smelt bio-
13 logical opinion or the salmonid biological opin-
14 ion is implemented; and

15 (B) confirm that those changes are con-
16 sistent with the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.).

18 (4) SAVINGS.—Nothing in the applicable provi-
19 sions of this subtitle shall have any effect on the ap-
20 plication of the California Endangered Species Act
21 (California Fish and Game Code sections 2050
22 through 2116).

23 (c) AREA OF ORIGIN AND WATER RIGHTS PROTEC-
24 TIONS.—

1 (1) IN GENERAL.—The Secretary of the Inte-
2 rior and the Secretary of Commerce, in carrying out
3 the mandates of the applicable provisions of this
4 subtitle, shall take no action that—

5 (A) diminishes, impairs, or otherwise af-
6 fects in any manner any area of origin, water-
7 shed of origin, county of origin, or any other
8 water rights protection, including rights to
9 water appropriated before December 19, 1914,
10 provided under State law;

11 (B) limits, expands or otherwise affects the
12 application of section 10505, 10505.5, 11128,
13 11460, 11461, 11462, 11463 or 12200 through
14 12220 of the California Water Code or any
15 other provision of State water rights law, with-
16 out respect to whether such a provision is spe-
17 cifically referred to in this section; or

18 (C) diminishes, impairs, or otherwise af-
19 fects in any manner any water rights or water
20 rights priorities under applicable law.

21 (2) EFFECT OF ACT.—

22 (A) Nothing in the applicable provisions of
23 this subtitle affects or modifies any obligation
24 of the Secretary of the Interior under section 8

1 of the Act of June 17, 1902 (32 Stat. 390,
2 chapter 1093).

3 (B) Nothing in the applicable provisions of
4 this subtitle diminishes, impairs, or otherwise
5 affects in any manner any Project purposes or
6 priorities for the allocation, delivery or use of
7 water under applicable law, including the
8 Project purposes and priorities established
9 under section 3402 and section 3406 of the
10 Central Valley Project Improvement Act (Public
11 Law 102–575; 106 Stat. 4706).

12 (d) NO REDIRECTED ADVERSE IMPACTS.—

13 (1) IN GENERAL.—The Secretary of the Inte-
14 rior and Secretary of Commerce shall not carry out
15 any specific action authorized under the applicable
16 provisions of this subtitle that would directly or
17 through State agency action indirectly result in the
18 involuntary reduction of water supply to an indi-
19 vidual, district, or agency that has in effect a con-
20 tract for water with the State Water Project or the
21 Central Valley Project, including Settlement and Ex-
22 change contracts, refuge contracts, and Friant Divi-
23 sion contracts, as compared to the water supply that
24 would be provided in the absence of action under
25 this subtitle, and nothing in this section is intended

1 to modify, amend or affect any of the rights and ob-
2 ligations of the parties to such contracts.

3 (2) ACTION ON DETERMINATION.—If, after ex-
4 ploring all options, the Secretary of the Interior or
5 the Secretary of Commerce makes a final determina-
6 tion that a proposed action under the applicable pro-
7 visions of this subtitle cannot be carried out in ac-
8 cordance with paragraph (1), that Secretary—

9 (A) shall document that determination in
10 writing for that action, including a statement of
11 the facts relied on, and an explanation of the
12 basis, for the decision; and

13 (B) is subject to applicable law, including
14 the Endangered Species Act of 1973 (16 U.S.C.
15 1531 et seq.).

16 (e) ALLOCATIONS FOR SACRAMENTO VALLEY WATER
17 SERVICE CONTRACTORS.—

18 (1) DEFINITIONS.—In this subsection:

19 (A) EXISTING CENTRAL VALLEY PROJECT
20 AGRICULTURAL WATER SERVICE CONTRACTOR
21 WITHIN THE SACRAMENTO RIVER WATER-
22 SHED.—The term “existing Central Valley
23 Project agricultural water service contractor
24 within the Sacramento River Watershed”
25 means any water service contractor within the

1 Shasta, Trinity, or Sacramento River division of
2 the Central Valley Project that has in effect a
3 water service contract on the date of enactment
4 of this subtitle that provides water for irriga-
5 tion.

6 (B) YEAR TERMS.—The terms “Above
7 Normal”, “Below Normal”, “Dry”, and “Wet”,
8 with respect to a year, have the meanings given
9 those terms in the Sacramento Valley Water
10 Year Type (40–30–30) Index.

11 (2) ALLOCATIONS OF WATER.—

12 (A) ALLOCATIONS.—Subject to paragraph
13 (3), the Secretary of the Interior shall make
14 every reasonable effort in the operation of the
15 Central Valley Project to allocate water pro-
16 vided for irrigation purposes to each existing
17 Central Valley Project agricultural water service
18 contractor within the Sacramento River Water-
19 shed in accordance with the following:

20 (i) Not less than 100 percent of the
21 contract quantity of the existing Central
22 Valley Project agricultural water service
23 contractor within the Sacramento River
24 Watershed in a “Wet” year.

1 (ii) Not less than 100 percent of the
2 contract quantity of the existing Central
3 Valley Project agricultural water service
4 Contractor within the Sacramento River
5 Watershed in an “Above Normal” year.

6 (iii) Not less than 100 percent of the
7 contract quantity of the existing Central
8 Valley Project agricultural water service
9 contractor within the Sacramento River
10 Watershed in a “Below Normal” year that
11 is preceded by an “Above Normal” or
12 “Wet” year.

13 (iv) Not less than 50 percent of the
14 contract quantity of the existing Central
15 Valley Project agricultural water service
16 contractor within the Sacramento River
17 Watershed in a “Dry” year that is pre-
18 ceded by a “Below Normal”, “Above Nor-
19 mal”, or “Wet” year.

20 (v) In any other year not identified in
21 any of clauses (i) through (iv), not less
22 than twice the allocation percentage to
23 south-of-Delta Central Valley Project agri-
24 cultural water service contractors, up to
25 100 percent.

1 (B) EFFECT OF CLAUSE.—In the event of
2 anomalous circumstances, nothing in clause
3 (A)(v) precludes an allocation to an existing
4 Central Valley Project agricultural water service
5 contractor within the Sacramento River Water-
6 shed that is greater than twice the allocation
7 percentage to a south-of-Delta Central Valley
8 Project agricultural water service contractor.

9 (3) PROTECTION OF ENVIRONMENT, MUNICIPAL
10 AND INDUSTRIAL SUPPLIES, AND OTHER CONTRAC-
11 TORS.—

12 (A) ENVIRONMENT.—Nothing in para-
13 graph (2) shall adversely affect any protections
14 for the environment, including—

15 (i) the obligation of the Secretary of
16 the Interior to make water available to
17 managed wetlands pursuant to section
18 3406(d) of the Central Valley Project Im-
19 provement Act (Public Law 102–575; 106
20 Stat. 4722); or

21 (ii) any obligation—

22 (I) of the Secretary of the Inte-
23 rior and the Secretary of Commerce
24 under the smelt biological opinion, the
25 salmonid biological opinion, or any

1 other applicable biological opinion; in-
2 cluding the Shasta Dam cold water
3 pool requirements as set forth in the
4 salmonid biological opinion or any
5 other applicable State or Federal law
6 (including regulations); or

7 (II) under the Endangered Spe-
8 cies Act of 1973 (16 U.S.C. et seq.),
9 the Central Valley Project Improve-
10 ment Act (Public Law 102–575; 106
11 Stat. 4706), or any other applicable
12 State or Federal law (including regu-
13 lations).

14 (B) MUNICIPAL AND INDUSTRIAL SUP-
15 PLIES.—Nothing in paragraph (2) shall—

16 (i) modify any provision of a water
17 service contract that addresses municipal
18 or industrial water shortage policies of the
19 Secretary of the Interior and the Secretary
20 of Commerce;

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

1 (iii) affect or limit the authority of the
2 Secretary of the Interior and the Secretary
3 of Commerce to implement a municipal or
4 industrial water shortage policy;

5 (iv) constrain, govern, or affect, di-
6 rectly or indirectly, the operations of the
7 American River division of the Central Val-
8 ley Project or any deliveries from that divi-
9 sion or a unit or facility of that division;
10 or

11 (v) affects any allocation to a Central
12 Valley Project municipal or industrial
13 water service contractor by increasing or
14 decreasing allocations to the contractor, as
15 compared to the allocation the contractor
16 would have received absent paragraph (2).

17 (C) OTHER CONTRACTORS.—Nothing in
18 paragraph (2) shall—

19 (i) affect the priority of any individual
20 or entity with a Sacramento River settle-
21 ment contract over water service or repay-
22 ment contractors;

23 (ii) affect the obligation of the United
24 States to make a substitute supply of

1 water available to the San Joaquin River
2 exchange contractors;

3 (iii) affect the allocation of water to
4 Friant division contractors of the Central
5 Valley Project;

6 (iv) result in the involuntary reduction
7 in contract water allocations to individuals
8 or entities with contracts to receive water
9 from the Friant division;

10 (v) result in the involuntary reduction
11 in water allocations to refuge contractors;

12 or

13 (vi) authorize any actions inconsistent
14 with State water rights law.

15 **SEC. 4006. NEW MELONES RESERVOIR.**

16 The Commissioner is directed to work with local
17 water and irrigation districts in the Stanislaus River
18 Basin to ascertain the water storage made available by
19 the Draft Plan of Operations in New Melones Reservoir
20 (DRPO) for water conservation programs, conjunctive use
21 projects, water transfers, rescheduled project water and
22 other projects to maximize water storage and ensure the
23 beneficial use of the water resources in the Stanislaus
24 River Basin. All such programs and projects shall be im-
25 plemented according to all applicable laws and regulations.

1 The source of water for any such storage program at New
2 Melones Reservoir shall be made available under a valid
3 water right, consistent with the State water transfer
4 guidelines and any other applicable State water law. The
5 Commissioner shall inform the Congress within 18 months
6 setting forth the amount of storage made available by the
7 DRPO that has been put to use under this program, in-
8 cluding proposals received by the Commissioner from in-
9 terested parties for the purpose of this section.

10 **SEC. 4007. STORAGE.**

11 (a) DEFINITIONS.—In this subtitle:

12 (1) FEDERALLY OWNED STORAGE PROJECT.—

13 The term “federally owned storage project” means
14 any project involving a surface water storage facility
15 in a Reclamation State—

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

17 and

18 (B) that was authorized to be constructed,
19 operated, and maintained pursuant to the rec-
20 lamation laws.

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

24 (A) involves a groundwater or surface
25 water storage facility constructed, operated, and

1 maintained by any State, department of a
2 State, subdivision of a State, or public agency
3 organized pursuant to State law; and

4 (B) provides a benefit in meeting any obli-
5 gation under Federal law (including regula-
6 tions).

7 (b) **FEDERALLY OWNED STORAGE PROJECTS.—**

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

16 (2) **FEDERAL COST SHARE.—**Subject to the re-
17 quirements of this subsection, the Secretary of the
18 Interior may participate in a federally owned storage
19 project in an amount equal to not more than 50 per-
20 cent of the total cost of the federally owned storage
21 project.

22 (3) **COMMENCEMENT.—**The construction of a
23 federally owned storage project that is the subject of
24 an agreement under this subsection shall not com-
25 mence until the Secretary of the Interior—

1 (A) determines that the proposed federally
2 owned storage project is feasible in accordance
3 with the reclamation laws;

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

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

14 (4) ENVIRONMENTAL LAWS.—In participating
15 in a federally owned storage project under this sub-
16 section, the Secretary of the Interior shall comply
17 with all applicable environmental laws, including the
18 National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.).

20 (c) STATE-LED STORAGE PROJECTS.—

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

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

5 (A) the participation has been requested by
6 the Governor of the State in which the State-
7 led storage project is located;

8 (B) the State or local sponsor determines,
9 and the Secretary of the Interior concurs,
10 that—

11 (i) the State-led storage project is
12 technically and financially feasible and pro-
13 vides a Federal benefit in accordance with
14 the reclamation laws;

15 (ii) sufficient non-Federal funding is
16 available to complete the State-led storage
17 project; and

18 (iii) the State-led storage project
19 sponsors are financially solvent;

20 (C) the Secretary of the Interior deter-
21 mines that, in return for the Federal cost-share
22 investment in the State-led storage project, at
23 least a proportional share of the project benefits
24 are the Federal benefits, including water sup-
25 plies dedicated to specific purposes such as en-

1 vironmental enhancement and wildlife refuges;
2 and

3 (D) the Secretary of the Interior submits
4 to Congress a written notification of these de-
5 terminations within 30 days of making such de-
6 terminations.

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

13 (4) INFORMATION.—When participating in a
14 State-led storage project under this subsection, the
15 Secretary of the Interior—

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

21 (B) shall retain responsibility for making
22 the independent determinations described in
23 paragraph (2).

24 (d) AUTHORITY TO PROVIDE ASSISTANCE.—The
25 Secretary of the Interior may provide financial assistance

1 under this subtitle to carry out projects within any Rec-
2 lamation State.

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

11 (f) COMPLIANCE WITH CALIFORNIA WATER
12 BOND.—

13 (1) IN GENERAL.—The provision of Federal
14 funding for construction of a State-led storage
15 project in the State of California shall be subject to
16 the condition that the California Water Commission
17 shall determine that the State-led storage project is
18 consistent with the California Water Quality, Sup-
19 ply, and Infrastructure Improvement Act, approved
20 by California voters on November 4, 2014.

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

1 (g) PARTNERSHIP AND AGREEMENTS.—The Sec-
2 retary of the Interior, acting through the Commissioner,
3 may partner or enter into an agreement regarding the
4 water storage projects identified in section 103(d)(1) of
5 the Water Supply, Reliability, and Environmental Im-
6 provement Act (Public Law 108–361; 118 Stat. 1688)
7 with local joint powers authorities formed pursuant to
8 State law by irrigation districts and other local water dis-
9 tricts and local governments within the applicable hydro-
10 logic region, to advance those projects.

11 (h) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) \$335,000,000 of funding in section 4011(e)
13 is authorized to remain available until expended.

14 (2) Projects can only receive funding if enacted
15 appropriations legislation designates funding to
16 them by name, after the Secretary recommends spe-
17 cific projects for funding pursuant to this section
18 and transmits such recommendations to the appro-
19 priate committees of Congress.

20 (i) SUNSET.—This section shall apply only to feder-
21 ally owned storage projects and State-led storage projects
22 that the Secretary of the Interior determines to be feasible
23 before January 1, 2021.

24 (j) CONSISTENCY WITH STATE LAW.—Nothing in
25 this section preempts or modifies any obligation of the

1 United States to act in conformance with applicable State
2 law.

3 (k) CALFED AUTHORIZATION.—Title I of Public Law
4 108–361 (the Calfed Bay-Delta Authorization Act) (118
5 Stat. 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat.
6 2312) (as amended by section 207 of Public Law 114–
7 113) is amended by striking “2017” each place it appears
8 and inserting “2019”.

9 **SEC. 4008. LOSSES CAUSED BY THE CONSTRUCTION AND**
10 **OPERATION OF STORAGE PROJECTS.**

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

21 (1) provide compensation otherwise required by
22 law; and

23 (2) provide the owner of the affected marina,
24 recreational facility, or other water-dependent busi-
25 ness under mutually agreeable terms and conditions

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

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

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

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

1 (3) provide compensation for the construction
2 of any water conveyance facilities as are necessary to
3 convey water to any new powerhouse constructed by
4 such owner in association with such new hydro-
5 electric generating facilities;

6 (4) provide for paragraphs (1), (2), and (3) at
7 a cost not to exceed the estimated value of the ac-
8 tual impacts to any existing non-Federal hydro-
9 electric project, including impacts to its capacity and
10 energy value, and as estimated for the associated
11 feasibility study, including additional planning, envi-
12 ronmental, design, construction, and operations and
13 maintenance costs for existing and replacement fa-
14 cilities; and

15 (5) ensure that action taken under paragraphs
16 (1), (2), (3), and (4) shall not directly or indirectly
17 increase the costs to recipients of power marketed by
18 the Western Area Power Administration, nor de-
19 crease the value of such power.

20 (c) EXISTING LICENSEE.—The owner of any project
21 affected under subsection (b)(2) shall be deemed the exist-
22 ing licensee, in accordance with section 15(a) of the Act
23 of June 10, 1920 (16 U.S.C. 808(a)), for any replacement
24 project to be constructed within the proximate geographic
25 area of the affected project.

1 (d) COST ALLOCATION.—

2 (1) COMPENSATION.—Any compensation under
3 this section shall be a project cost allocated solely to
4 the direct beneficiaries of the new or modified water
5 project constructed under this section.

6 (2) REPLACEMENT COSTS.—The costs of the
7 replacement project, and any compensation, shall
8 be—

9 (A) treated as a stand-alone project and
10 shall not be financially integrated in any other
11 project; and

12 (B) allocated in accordance with mutually
13 agreeable terms between the Secretary and
14 project beneficiaries.

15 (e) APPLICABILITY.—This section shall only apply to
16 federally owned water storage projects whether authorized
17 under section 4007 or some other authority.

18 (f) LIMITATION.—Nothing in this section affects the
19 ability of landowners or Indian tribes to seek compensa-
20 tion or any other remedy otherwise provided by law.

21 (g) SAVINGS CLAUSE.—No action taken under this
22 section shall directly or indirectly increase the costs to re-
23 cipients of power marketed by the Western Area Power
24 Administration, nor decrease the value of such power.

1 **SEC. 4009. OTHER WATER SUPPLY PROJECTS.**

2 (a) WATER DESALINATION ACT AMENDMENTS.—

3 Section 4 of the Water Desalination Act of 1996 (42
4 U.S.C. 10301 note; Public Law 104–298) is amended—

5 (1) in subsection (a)—

6 (A) by redesignating paragraphs (2) and
7 (3) as paragraphs (3) and (4), respectively; and

8 (B) by inserting after paragraph (1) the
9 following:

10 “(1) PROJECTS.—

11 “(A) IN GENERAL.—Subject to the re-
12 quirements of this subsection, the Secretary of
13 the Interior may participate in an eligible de-
14 salination project in an amount equal to not
15 more than 25 percent of the total cost of the
16 eligible desalination project.

17 “(B) ELIGIBLE DESALINATION PROJECT.—
18 The term ‘eligible desalination project’ means
19 any project in a Reclamation State, that—

20 “(i) involves an ocean or brackish
21 water desalination facility either con-
22 structed, operated and maintained; or
23 sponsored by any State, department of a
24 State, subdivision of a State or public
25 agency organized pursuant to a State law;
26 and

1 “(ii) provides a Federal benefit in ac-
2 cordance with the reclamation laws (includ-
3 ing regulations).

4 “(C) STATE ROLE.—Participation by the
5 Secretary of the Interior in an eligible desalina-
6 tion project under this subsection shall not
7 occur unless—

8 “(i) the project is included in a state-
9 approved plan or federal participation has
10 been requested by the Governor of the
11 State in which the eligible desalination
12 project is located; and

13 “(ii) the State or local sponsor deter-
14 mines, and the Secretary of the Interior
15 concurs, that—

16 “(I) the eligible desalination
17 project is technically and financially
18 feasible and provides a Federal benefit
19 in accordance with the reclamation
20 laws;

21 “(II) sufficient non-Federal fund-
22 ing is available to complete the eligible
23 desalination project; and

1 “(III) the eligible desalination
2 project sponsors are financially sol-
3 vent; and

4 “(iii) the Secretary of the Interior
5 submits to Congress a written notification
6 of these determinations within 30 days of
7 making such determinations.

8 “(D) ENVIRONMENTAL LAWS.—When par-
9 ticipating in an eligible desalination project
10 under this subsection, the Secretary shall com-
11 ply with all applicable environmental laws, in-
12 cluding the National Environmental Policy Act
13 of 1969 (42 U.S.C. 4321 et seq.).

14 “(E) INFORMATION.—When participating
15 in an eligible desalination project under this
16 subsection, the Secretary of the Interior—

17 “(i) may rely on reports prepared by
18 the sponsor of the eligible desalination
19 project, including feasibility (or equivalent)
20 studies, environmental analyses, and other
21 pertinent reports and analyses; but

22 “(ii) shall retain responsibility for
23 making the independent determinations de-
24 scribed in subparagraph (C).

1 “(F) AUTHORIZATION OF APPROPRIA-
2 TIONS.—

3 “(i) \$30,000,000 of funding is author-
4 ized to remain available until expended;
5 and

6 “(ii) Projects can only receive funding
7 if enacted appropriations legislation des-
8 ignates funding to them by name, after the
9 Secretary recommends specific projects for
10 funding pursuant to this subsection and
11 transmits such recommendations to the ap-
12 propriate committees of Congress.”.

13 (c) AUTHORIZATION OF NEW WATER RECYCLING
14 AND REUSE PROJECTS.—Section 1602 of the Reclamation
15 Wastewater and Groundwater Study and Facilities Act
16 (title XVI of Public Law 102–575; 43 U.S.C. 390h et.
17 seq.) is amended by adding at the end the following new
18 subsections:

19 “(e) AUTHORIZATION OF NEW WATER RECYCLING
20 AND REUSE PROJECTS.—

21 “(1) SUBMISSION TO THE SECRETARY.—

22 “(A) IN GENERAL.—Non-Federal interests
23 may submit proposals for projects eligible to be
24 authorized pursuant to this section in the form
25 of completed feasibility studies to the Secretary.

1 “(B) ELIGIBLE PROJECTS.—A project
2 shall be considered eligible for consideration
3 under this section if the project reclaims and
4 reuses—

5 “(i) municipal, industrial, domestic, or
6 agricultural wastewater; or

7 “(ii) impaired ground or surface
8 waters.

9 “(C) GUIDELINES.—Within 60 days of the
10 enactment of this Act the Secretary shall issue
11 guidelines for feasibility studies for water recy-
12 cling and reuse projects to provide sufficient in-
13 formation for the formulation of the studies.

14 “(2) REVIEW BY THE SECRETARY.—The Sec-
15 retary shall review each feasibility study received
16 under paragraph (1)(A) for the purpose of—

17 “(A) determining whether the study, and
18 the process under which the study was devel-
19 oped, each comply with Federal laws and regu-
20 lations applicable to feasibility studies of water
21 recycling and reuse projects; and

22 “(B) the project is technically and finan-
23 cially feasible and provides a Federal benefit in
24 accordance with the reclamation laws.

1 “(3) SUBMISSION TO CONGRESS.—Not later
2 than 180 days after the date of receipt of a feasi-
3 bility study received under paragraph (1)(A), the
4 Secretary shall submit to the Committee on Energy
5 and Natural Resources of the Senate and the Com-
6 mittee on Natural Resources of the House of Rep-
7 resentatives a report that describes—

8 “(A) the results of the Secretary’s review
9 of the study under paragraph (2), including a
10 determination of whether the project is feasible;

11 “(B) any recommendations the Secretary
12 may have concerning the plan or design of the
13 project; and

14 “(C) any conditions the Secretary may re-
15 quire for construction of the project.

16 “(4) ELIGIBILITY FOR FUNDING.—The non-
17 Federal project sponsor of any project determined by
18 the Secretary to be feasible under paragraph (3)(A)
19 shall be eligible to apply to the Secretary for funding
20 for the Federal share of the costs of planning, de-
21 signing and constructing the project pursuant to
22 subsection (f).

23 “(f) COMPETITIVE GRANT PROGRAM FOR THE FUND-
24 ING OF WATER RECYCLING AND REUSE PROJECTS.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish a competitive grant program under which the
3 non-Federal project sponsor of any project deter-
4 mined by the Secretary to be feasible under sub-
5 section (e)(3)(A) shall be eligible to apply for fund-
6 ing for the planning, design, and construction of the
7 project, subject to subsection (g)(2).

8 “(2) PRIORITY.—When funding projects under
9 paragraph (1), the Secretary shall give funding pri-
10 ority to projects that meet one or more of the cri-
11 teria listed in paragraph (3) and are located in an
12 area that—

13 “(A) has been identified by the United
14 States Drought Monitor as experiencing severe,
15 extreme, or exceptional drought at any time in
16 the 4-year period before such funds are made
17 available; or

18 “(B) was designated as a disaster area by
19 a State during the 4-year period before such
20 funds are made available.

21 “(3) CRITERIA.—The project criteria referred
22 to in paragraph (2) are the following:

23 “(A) Projects that are likely to provide a
24 more reliable water supply for States and local
25 governments.

1 “(B) Projects that are likely to increase
2 the water management flexibility and reduce
3 impacts on environmental resources from
4 projects operated by Federal and State agen-
5 cies.

6 “(C) Projects that are regional in nature.

7 “(D) Projects with multiple stakeholders.

8 “(E) Projects that provide multiple bene-
9 fits, including water supply reliability, eco-sys-
10 tem benefits, groundwater management and en-
11 hancements, and water quality improvements.

12 “(g) AUTHORIZATION OF APPROPRIATIONS.—

13 “(1) There is authorized to be appropriated to
14 the Secretary of the Interior an additional
15 \$50,000,000 to remain available until expended.

16 “(2) Projects can only receive funding if en-
17 acted appropriations legislation designates funding
18 to them by name, after the Secretary recommends
19 specific projects for funding pursuant to subsection
20 (f) and transmits such recommendations to the ap-
21 propriate committees of Congress.”.

22 (d) FUNDING.—Section 9504 of the Omnibus Public
23 Land Management Act of 2009 (42 U.S.C. 10364) is
24 amended in subsection (e) by striking “\$350,000,000”
25 and inserting “\$450,000,000” on the condition that of

1 that amount, \$50,000,000 of it is used to carry out section
2 206 of the Energy and Water Development and Related
3 Agencies Appropriation Act, 2015 (43 U.S.C. 620 note;
4 Public Law 113–235).

5 **SEC. 4010. ACTIONS TO BENEFIT THREATENED AND ENDAN-**
6 **GERED SPECIES AND OTHER WILDLIFE.**

7 (a) INCREASED REAL-TIME MONITORING AND UP-
8 DATED SCIENCE.—

9 (1) SMELT BIOLOGICAL OPINION.—The Direc-
10 tor shall use the best scientific and commercial data
11 available to implement, continuously evaluate, and
12 refine or amend, as appropriate, the reasonable and
13 prudent alternative described in the smelt biological
14 opinion.

15 (2) INCREASED MONITORING TO INFORM REAL-
16 TIME OPERATIONS.—

17 (A) IN GENERAL.—The Secretary of the
18 Interior shall conduct additional surveys, on an
19 annual basis at the appropriate time of year
20 based on environmental conditions, in collabora-
21 tion with interested stakeholders regarding the
22 science of the Delta in general, and to enhance
23 real time decisionmaking in particular, working
24 in close coordination with relevant State au-
25 thorities.

1 (B) REQUIREMENTS.—In carrying out this
2 subsection, the Secretary of the Interior shall
3 use—

4 (i) the most appropriate and accurate
5 survey methods available for the detection
6 of Delta smelt to determine the extent to
7 which adult Delta smelt are distributed in
8 relation to certain levels of turbidity or
9 other environmental factors that may influ-
10 ence salvage rate;

11 (ii) results from appropriate surveys
12 for the detection of Delta smelt to deter-
13 mine how the Central Valley Project and
14 State Water Project may be operated more
15 efficiently to maximize fish and water sup-
16 ply benefits; and

17 (iii) science-based recommendations
18 developed by any of the persons or entities
19 described in paragraph (4)(B) to inform
20 the agencies' real-time decisions.

21 (C) WINTER MONITORING.—During the
22 period between December 1 and March 31, if
23 suspended sediment loads enter the Delta from
24 the Sacramento River, and the suspended sedi-
25 ment loads appear likely to raise turbidity levels

1 in the Old River north of the export pumps
2 from values below 12 Nephelometric Turbidity
3 Units (NTUs) to values above 12 NTUs, the
4 Secretary of the Interior shall—

5 (i) conduct daily monitoring using ap-
6 propriate survey methods at locations in-
7 cluding the vicinity of Station 902 to de-
8 termine the extent to which adult Delta
9 smelt are moving with turbidity toward the
10 export pumps; and

11 (ii) use results from the monitoring
12 under subparagraph (A) to determine how
13 increased trawling can inform daily real-
14 time Central Valley Project and State
15 Water Project operations to maximize fish
16 and water supply benefits.

17 (3) PERIODIC REVIEW OF MONITORING.—Not
18 later than 1 year after the date of enactment of this
19 subtitle, the Secretary of the Interior shall—

20 (A) evaluate whether the monitoring pro-
21 gram under paragraph (2), combined with other
22 monitoring programs for the Delta, is providing
23 sufficient data to inform Central Valley Project
24 and State Water Project operations to maxi-

1 mize the water supply for fish and water supply
2 benefits; and

3 (B) determine whether the monitoring ef-
4 forts should be changed in the short or long
5 term to provide more useful data.

6 (4) DELTA SMELT DISTRIBUTION STUDY.—

7 (A) IN GENERAL.—Not later than March
8 15, 2021, the Secretary of the Interior shall—

9 (i) complete studies, to be initiated by
10 not later than 90 days after the date of en-
11 actment of this subtitle, designed—

12 (I) to understand the location
13 and determine the abundance and dis-
14 tribution of Delta smelt throughout
15 the range of the Delta smelt; and

16 (II) to determine potential meth-
17 ods to minimize the effects of Central
18 Valley Project and State Water
19 Project operations on the Delta smelt;

20 (ii) based on the best available
21 science, if appropriate and practicable, im-
22 plement new targeted sampling and moni-
23 toring of Delta smelt in order to maximize
24 fish and water supply benefits prior to
25 completion of the study under clause (i);

1 (iii) to the maximum extent prac-
2 ticable, use new technologies to allow for
3 better tracking of Delta smelt, such as
4 acoustic tagging, optical recognition during
5 trawls, and fish detection using residual
6 deoxyribonucleic acid (DNA); and

7 (iv) if new sampling and monitoring is
8 not implemented under clause (ii), provide
9 a detailed explanation of the determination
10 of the Secretary of the Interior that no
11 change is warranted.

12 (B) CONSULTATION.—In determining the
13 scope of the studies under this subsection, the
14 Secretary of the Interior shall consult with—

15 (i) Central Valley Project and State
16 Water Project water contractors and public
17 water agencies;

18 (ii) other public water agencies;

19 (iii) the California Department of
20 Fish and Wildlife and the California De-
21 partment of Water Resources; and

22 (iv) nongovernmental organizations.

23 (b) ACTIONS TO BENEFIT ENDANGERED FISH POPU-
24 LATIONS.—

25 (1) FINDINGS.—Congress finds that—

1 (A) minimizing or eliminating stressors to
2 fish populations and their habitat in an efficient
3 and structured manner is a key aspect of a fish
4 recovery strategy;

5 (B) functioning, diverse, and inter-
6 connected habitats are necessary for a species
7 to be viable; and

8 (C) providing for increased fish habitat
9 may not only allow for a more robust fish recov-
10 ery, but also reduce impacts to water supplies.

11 (2) ACTIONS FOR BENEFIT OF ENDANGERED
12 SPECIES.—There is authorized to be appropriated
13 the following amounts:

14 (A) \$15,000,000 for the Secretary of Com-
15 merce, through the Administrator of the Na-
16 tional Oceanic and Atmospheric Administration,
17 to carry out the following activities in accord-
18 ance with the Endangered Species Act of 1973
19 (16 U.S.C. 1531 et seq.):

20 (i) Gravel and rearing area additions
21 and habitat restoration to the Sacramento
22 River to benefit Chinook salmon and
23 steelhead trout.

24 (ii) Scientifically improved and in-
25 creased real-time monitoring to inform

1 real-time operations of Shasta and related
2 Central Valley Project facilities, and alter-
3 native methods, models, and equipment to
4 improve temperature modeling and related
5 forecasted information for purposes of pre-
6 dicting impacts to salmon and salmon
7 habitat as a result of water management
8 at Shasta.

9 (iii) Methods to improve the Delta sal-
10 vage systems, including alternative meth-
11 ods to redeposit salvaged salmon smolts
12 and other fish from the Delta in a manner
13 that reduces predation losses.

14 (B) \$3,000,000 for the Secretary of the
15 Interior to conduct the Delta smelt distribution
16 study referenced in subsection (a)(4).

17 (3) COMMENCEMENT.—If the Administrator of
18 the National Oceanic and Atmospheric Administra-
19 tion determines that a proposed activity is feasible
20 and beneficial for protecting and recovering a fish
21 population, the Administrator shall commence imple-
22 mentation of the activity by not later than 1 year
23 after the date of enactment of this subtitle.

24 (4) CONSULTATION.—The Administrator shall
25 take such steps as are necessary to partner with,

1 and coordinate the efforts of, the Department of the
2 Interior, the Department of Commerce, and other
3 relevant Federal departments and agencies to ensure
4 that all Federal reviews, analyses, opinions, state-
5 ments, permits, licenses, and other approvals or de-
6 cisions required under Federal law are completed on
7 an expeditious basis, consistent with Federal law.

8 (5) CONSERVATION FISH HATCHERIES.—

9 (A) IN GENERAL.—Not later than 2 years
10 after the date of enactment of this subtitle, the
11 Secretaries of the Interior and Commerce, in
12 coordination with the Director of the California
13 Department of Fish and Wildlife, shall develop
14 and implement as necessary the expanded use
15 of conservation hatchery programs to enhance,
16 supplement, and rebuild Delta smelt and En-
17 dangered Species Act-listed fish species under
18 the smelt and salmonid biological opinions.

19 (B) REQUIREMENTS.—The conservation
20 hatchery programs established under paragraph
21 (1) and the associated hatchery and genetic
22 management plans shall be designed—

23 (i) to benefit, enhance, support, and
24 otherwise recover naturally spawning fish
25 species to the point where the measures

1 provided under the Endangered Species
2 Act of 1973 (16 U.S.C. 1531 et seq.) are
3 no longer necessary; and

4 (ii) to minimize adverse effects to
5 Central Valley Project and State Water
6 Project operations.

7 (C) PRIORITY; COOPERATIVE AGREE-
8 MENTS.—In implementing this section, the Sec-
9 retaries of the Interior and Commerce—

10 (i) shall give priority to existing and
11 prospective hatchery programs and facili-
12 ties within the Delta and the riverine trib-
13 utaries thereto; and

14 (ii) may enter into cooperative agree-
15 ments for the operation of conservation
16 hatchery programs with States, Indian
17 tribes, and other nongovernmental entities
18 for the benefit, enhancement, and support
19 of naturally spawning fish species.

20 (6) ACQUISITION OF LAND, WATER, OR INTER-
21 ESTS FROM WILLING SELLERS FOR ENVIRONMENTAL
22 PURPOSES IN CALIFORNIA.—

23 (A) IN GENERAL.—The Secretary of the
24 Interior is authorized to acquire by purchase,
25 lease, donation, or otherwise, land, water, or in-

1 terests in land or water from willing sellers in
2 California—

3 (i) to benefit listed or candidate spe-
4 cies under the Endangered Species Act of
5 1973 (16 U.S.C. 1531 et seq.) or the Cali-
6 fornia Endangered Species Act (California
7 Fish and Game Code sections 2050
8 through 2116);

9 (ii) to meet requirements of, or other-
10 wise provide water quality benefits under,
11 the Federal Water Pollution Control Act
12 (33 U.S.C. 1251 et seq.) or the Porter Co-
13 logne Water Quality Control Act (division
14 7 of the California Water Code); or

15 (iii) for protection and enhancement
16 of the environment, as determined by the
17 Secretary of the Interior.

18 (B) STATE PARTICIPATION.—In imple-
19 menting this section, the Secretary of the Inte-
20 rior is authorized to participate with the State
21 of California or otherwise hold such interests
22 identified in subparagraph (A) in joint owner-
23 ship with the State of California based on a
24 cost share deemed appropriate by the Secretary.

1 (C) TREATMENT.—Any expenditures under
2 this subsection shall be nonreimbursable and
3 nonreturnable to the United States.

4 (7) REAUTHORIZATION OF THE FISHERIES RES-
5 TINATION AND IRRIGATION MITIGATION ACT OF
6 2000.—

7 (A) Section 10(a) of the Fisheries Restora-
8 tion and Irrigation Mitigation Act of 2000 (16
9 U.S.C. 777 note; Public Law 106–502) is
10 amended by striking “\$25 million for each of
11 fiscal years 2009 through 2015” and inserting
12 “\$15 million through 2021”; and

13 (B) Section 2 of the Fisheries Restoration
14 and Irrigation Mitigation Act of 2000 (16
15 U.S.C. 777 note; Public Law 106–502) is
16 amended by striking “Montana, and Idaho”
17 and inserting “Montana, Idaho, and Cali-
18 fornia”.

19 (c) ACTIONS TO BENEFIT REFUGES.—

20 (1) IN GENERAL.—In addition to funding under
21 section 3407 of the Central Valley Project Improve-
22 ment Act (Public Law 102–575; 106 Stat. 4726),
23 there is authorized to be appropriated to the Sec-
24 retary of the Interior \$2,000,000 for each of fiscal
25 years 2017 through 2021 for the acceleration and

1 completion of water infrastructure and conveyance
2 facilities necessary to achieve full water deliveries to
3 Central Valley wildlife refuges and habitat areas
4 pursuant to section 3406(d) of that Act (Public Law
5 102–575; 106 Stat. 4722).

6 (2) COST SHARING.—

7 (A) FEDERAL SHARE.—The Federal share
8 of the cost of carrying out an activity described
9 in this section shall be not more than 50 per-
10 cent.

11 (B) NON-FEDERAL SHARE.—The non-Fed-
12 eral share of the cost of carrying out an activity
13 described in this section—

14 (i) shall be not less than 50 percent;

15 and

16 (ii) may be provided in cash or in
17 kind.

18 (d) NON-FEDERAL PROGRAM TO PROTECT NATIVE
19 ANADROMOUS FISH IN STANISLAUS RIVER.—

20 (1) DEFINITION OF DISTRICT.—In this section,
21 the term “district” means—

22 (A) the Oakdale Irrigation District of the
23 State of California; and

24 (B) the South San Joaquin Irrigation Dis-
25 trict of the State of California.

1 (2) ESTABLISHMENT.—The Secretary of Com-
2 merce, acting through the Assistant Administrator
3 of the National Marine Fisheries Service, and the
4 districts shall jointly establish and conduct a non-
5 native predator research and pilot fish removal pro-
6 gram to study the effects of removing from the
7 Stanislaus River—

8 (A) nonnative striped bass, smallmouth
9 bass, largemouth bass, black bass; and

10 (B) other nonnative predator fish species.

11 (3) REQUIREMENTS.—The program under this
12 section shall—

13 (A) be scientifically based, with research
14 questions determined jointly by—

15 (i) National Marine Fisheries Service
16 scientists; and

17 (ii) technical experts of the districts;

18 (B) include methods to quantify by, among
19 other things, evaluating the number of juvenile
20 anadromous fish that migrate past the rotary
21 screw trap located at Caswell—

22 (i) the number and size of predator
23 fish removed each year; and

24 (ii) the impact of the removal on—

1 (I) the overall abundance of pred-
2 ator fish in the Stanislaus River; and

3 (II) the populations of juvenile
4 anadromous fish in the Stanislaus
5 River;

6 (C) among other methods, consider using
7 wire fyke trapping, portable resistance board
8 weirs, and boat electrofishing; and

9 (D) be implemented as quickly as prac-
10 ticable after the date of issuance of all nec-
11 essary scientific research permits.

12 (4) MANAGEMENT.—The management of the
13 program shall be the joint responsibility of the As-
14 sistant Administrator and the districts, which
15 shall—

16 (A) work collaboratively to ensure the per-
17 formance of the program; and

18 (B) discuss and agree on, among other
19 things—

20 (i) qualified scientists to lead the pro-
21 gram;

22 (ii) research questions;

23 (iii) experimental design;

24 (iv) changes in the structure, manage-
25 ment, personnel, techniques, strategy, data

1 collection and access, reporting, and con-
2 duct of the program; and

3 (v) the need for independent peer re-
4 view.

5 (5) CONDUCT.—

6 (A) IN GENERAL.—For each applicable cal-
7 endar year, the districts, on agreement of the
8 Assistant Administrator, may elect to conduct
9 the program under this section using—

10 (i) the personnel of the Assistant Ad-
11 ministrator or districts;

12 (ii) qualified private contractors hired
13 by the districts;

14 (iii) personnel of, on loan to, or other-
15 wise assigned to the National Marine Fish-
16 eries Service; or

17 (iv) a combination of the individuals
18 described in clauses (i) through (iii).

19 (B) PARTICIPATION BY NATIONAL MARINE
20 FISHERIES SERVICE.—

21 (i) IN GENERAL.—If the districts elect
22 to conduct the program using district per-
23 sonnel or qualified private contractors
24 hired under clause (i) or (ii) of subpara-
25 graph (A), the Assistant Administrator

1 may assign an employee of, on loan to, or
2 otherwise assigned to the National Marine
3 Fisheries Service, to be present for all ac-
4 tivities performed in the field to ensure
5 compliance with paragraph (4).

6 (ii) COSTS.—The districts shall pay
7 the cost of participation by the employee
8 under clause (i), in accordance with para-
9 graph (6).

10 (C) TIMING OF ELECTION.—The districts
11 shall notify the Assistant Administrator of an
12 election under subparagraph (A) by not later
13 than October 15 of the calendar year preceding
14 the calendar year for which the election applies.

15 (6) FUNDING.—

16 (A) IN GENERAL.—The districts shall be
17 responsible for 100 percent of the cost of the
18 program.

19 (B) CONTRIBUTED FUNDS.—The Secretary
20 of Commerce may accept and use contributions
21 of funds from the districts to carry out activi-
22 ties under the program.

23 (C) ESTIMATION OF COST.—

24 (i) IN GENERAL.—Not later than De-
25 cember 1 of each year of the program, the

1 Secretary of Commerce shall submit to the
2 districts an estimate of the cost to be in-
3 curred by the National Marine Fisheries
4 Service for the program during the fol-
5 lowing calendar year, if any, including the
6 cost of any data collection and posting
7 under paragraph (7).

8 (ii) FAILURE TO FUND.—If an
9 amount equal to the estimate of the Sec-
10 retary of Commerce is not provided
11 through contributions pursuant to sub-
12 paragraph (B) before December 31 of that
13 calendar year—

14 (I) the Secretary shall have no
15 obligation to conduct the program ac-
16 tivities otherwise scheduled for the fol-
17 lowing calendar year until the amount
18 is contributed by the districts; and

19 (II) the districts may not conduct
20 any aspect of the program until the
21 amount is contributed by the districts.

22 (D) ACCOUNTING.—

23 (i) IN GENERAL.—Not later than Sep-
24 tember 1 of each year, the Secretary of
25 Commerce shall provide to the districts an

1 accounting of the costs incurred by the
2 Secretary for the program during the pre-
3 ceding calendar year.

4 (ii) EXCESS AMOUNTS.—If the
5 amount contributed by the districts pursu-
6 ant to subparagraph (B) for a calendar
7 year was greater than the costs incurred
8 by the Secretary of Commerce during that
9 year, the Secretary shall—

10 (I) apply the excess amounts to
11 the cost of activities to be performed
12 by the Secretary under the program,
13 if any, during the following calendar
14 year; or

15 (II) if no such activities are to be
16 performed, repay the excess amounts
17 to the districts.

18 (7) PUBLICATION AND EVALUATION OF
19 DATA.—

20 (A) IN GENERAL.—All data generated
21 through the program, including by any private
22 consultants, shall be routinely provided to the
23 Assistant Administrator.

24 (B) INTERNET.—Not later than the 15th
25 day of each month of the program, the Assist-

1 ant Administrator shall publish on the Internet
2 website of the National Marine Fisheries Serv-
3 ice a tabular summary of the raw data collected
4 under the program during the preceding month.

5 (C) REPORT.—On completion of the pro-
6 gram, the Assistant Administrator shall prepare
7 a final report evaluating the effectiveness of the
8 program, including recommendations for future
9 research and removal work.

10 (8) CONSISTENCY WITH LAW.—

11 (A) IN GENERAL.—The programs in this
12 section and subsection (e) are found to be con-
13 sistent with the requirements of the Central
14 Valley Project Improvement Act (Public Law
15 102–575; 106 Stat. 4706).

16 (B) LIMITATION.—No provision, plan, or
17 definition under that Act, including section
18 3406(b)(1) of that Act (Public Law 102–575;
19 106 Stat. 4714), shall be used—

20 (i) to prohibit the implementation of
21 the programs in this subsection and sub-
22 section (e); or

23 (ii) to prevent the accomplishment of
24 the goals of the programs.

1 (e) PILOT PROJECTS TO IMPLEMENT CALFED
2 INVASIVE SPECIES PROGRAM.—

3 (1) IN GENERAL.—Not later than January 1,
4 2018, the Secretary of the Interior, in collaboration
5 with the Secretary of Commerce, the Director of the
6 California Department of Fish and Wildlife, and
7 other relevant agencies and interested parties, shall
8 establish and carry out pilot projects to implement
9 the invasive species control program under section
10 103(d)(6)(A)(iv) of Public Law 108–361 (118 Stat.
11 1690).

12 (2) REQUIREMENTS.—The pilot projects under
13 this section shall—

14 (A) seek to reduce invasive aquatic vegeta-
15 tion (such as water hyacinth), predators, and
16 other competitors that contribute to the decline
17 of native listed pelagic and anadromous species
18 that occupy the Sacramento and San Joaquin
19 Rivers and their tributaries and the Delta; and

20 (B) remove, reduce, or control the effects
21 of species including Asiatic clams, silversides,
22 gobies, Brazilian water weed, largemouth bass,
23 smallmouth bass, striped bass, crappie, bluegill,
24 white and channel catfish, zebra and quagga
25 mussels, and brown bullheads.

1 (3) EMERGENCY ENVIRONMENTAL REVIEWS.—

2 To expedite environmentally beneficial programs in
3 this subtitle for the conservation of threatened and
4 endangered species, the Secretaries of the Interior
5 and Commerce shall consult with the Council on En-
6 vironmental Quality in accordance with section
7 1506.11 of title 40, Code of Federal Regulations (or
8 successor regulations), to develop alternative ar-
9 rangements to comply with the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
11 for those programs.

12 (f) COLLABORATIVE PROCESSES.—Notwithstanding
13 the Federal Advisory Committee Act (5 U.S.C. App.) and
14 applicable Federal acquisitions and contracting authori-
15 ties, the Secretaries of the Interior and Commerce may
16 use the collaborative processes under the Collaborative
17 Science Adaptive Management Program to enter into con-
18 tracts with specific individuals or organizations directly or
19 in conjunction with appropriate State agencies.

20 (g) THE “SAVE OUR SALMON ACT”.—

21 (1) TREATMENT OF STRIPED BASS.—

22 (A) ANADROMOUS FISH.—Section 3403(a)
23 of the Central Valley Project Improvement Act
24 (title XXXIV of Public Law 102–575) is

1 amended by striking “striped bass,” after
2 “stocks of salmon (including steelhead),”.

3 (B) FISH AND WILDLIFE RESTORATION
4 ACTIVITIES.—Section 3406(b) of the Central
5 Valley Project Improvement Act (title XXXIV
6 of Public Law 102–575) is amended by—

7 (i) striking paragraphs (14) and (18);

8 (ii) redesignating paragraphs (15)
9 through (17) as paragraphs (14) through
10 (16), respectively; and

11 (iii) redesignating paragraphs (19)
12 through (23) as paragraphs (17) through
13 (21), respectively.

14 (2) CONFORMING CHANGES.—Section 3407(a)
15 of the Central Valley Project Improvement Act (title
16 XXXIV of Public Law 102–575) is amended by
17 striking “(10)–(18), and (20)–(22)” and inserting
18 “(10)–(16), and (18)–(20)”.

19 **SEC. 4011. OFFSETS AND WATER STORAGE ACCOUNT.**

20 (a) PREPAYMENT OF CERTAIN REPAYMENT CON-
21 TRACTS BETWEEN THE UNITED STATES AND CONTRAC-
22 TORS OF FEDERALLY DEVELOPED WATER SUPPLIES.—

23 (1) CONVERSION AND PREPAYMENT OF CON-
24 TRACTS.—Upon request of the contractor, the Sec-
25 retary of the Interior shall convert any water service

1 contract in effect on the date of enactment of this
2 subtitle and between the United States and a water
3 users' association to allow for prepayment of the re-
4 payment contract pursuant to paragraph (2) under
5 mutually agreeable terms and conditions. The man-
6 ner of conversion under this paragraph shall be as
7 follows:

8 (A) Water service contracts that were en-
9 tered into under section (e) of the Act of Au-
10 gust 4, 1939 (53 Stat. 1196), to be converted
11 under this section shall be converted to repay-
12 ment contracts under section 9(d) of that Act
13 (53 Stat. 1195).

14 (B) Water service contracts that were en-
15 tered under subsection (c)(2) of section 9 of the
16 Act of August 4, 1939 (53 Stat. 1194), to be
17 converted under this section shall be converted
18 to a contract under subsection (c)(1) of section
19 9 of that Act (53 Stat. 1195).

20 (2) PREPAYMENT.—Except for those repayment
21 contracts under which the contractor has previously
22 negotiated for prepayment, all repayment contracts
23 under section 9(d) of that Act (53 Stat. 1195) in ef-
24 fect on the date of enactment of this subtitle at the

1 request of the contractor, and all contracts converted
2 pursuant to paragraph (1)(A) shall—

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

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

1 costs to the contractors exercising contract con-
2 version under this subsection of less than
3 \$5,000,000. If such amount is \$5,000,000 or
4 greater, such cost shall be repaid as provided by
5 applicable reclamation law;

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

10 (D) continue so long as the contractor
11 pays applicable charges, consistent with section
12 9(d) of the Act of August 4, 1939 (53 Stat.
13 1195), and applicable law.

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

23 (A) Provide for the repayment in lump
24 sum of the remaining construction costs identi-
25 fied in water project specific municipal and in-

1 industrial rate repayment schedules, as adjusted
2 to reflect payments not reflected in such sched-
3 ules, and properly assignable for ultimate re-
4 turn by the contractor. An estimate of the re-
5 maining construction costs, as adjusted, shall
6 be provided by the Secretary to the contractor
7 no later than 90 days after receipt of the re-
8 quest of contractor.

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

22 (C) Continue so long as the contractor
23 pays applicable charges, consistent with section
24 9(c)(1) of the Act of August 4, 1939 (53 Stat.
25 1195), and applicable law.

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

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

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

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

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

1 repayment of such amount may be developed by the par-
2 ties. In the event that the final cost allocation indicates
3 that the costs properly assignable to the contractor are
4 less than what the contractor has paid, the Secretary shall
5 credit such overpayment as an offset against any out-
6 standing or future obligation of the contractor, with the
7 exception of Restoration Fund charges pursuant to section
8 3407(d) of Public Law 102–575.

9 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

10 (1) EFFECT OF EXISTING LAW.—Upon a con-
11 tractor’s compliance with and discharge of the obli-
12 gation of repayment of the construction costs pursu-
13 ant to a contract entered into pursuant to subsection
14 (a)(2)(A), subsections (a) and (b) of section 213 of
15 the Reclamation Reform Act of 1982 (96 Stat.
16 1269) shall apply to affected lands.

17 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
18 ligation of a contractor to repay construction costs
19 or other capitalized costs described in subsection
20 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
21 tractor’s status as having repaid all of the construc-
22 tion costs assignable to the contractor or the appli-
23 cability of subsections (a) and (b) of section 213 of
24 the Reclamation Reform Act of 1982 (96 Stat.
25 1269) once the amount required to be paid by the

1 contractor under the repayment contract entered
2 into pursuant to subsection (a)(2)(A) has been paid.

3 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-
4 plementation of the provisions of this subtitle shall not
5 alter—

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

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

21 (3) the priority of a water service or repayment
22 contractor to receive water; or

23 (4) except as expressly provided in this section,
24 any obligations under the reclamation law, including
25 the continuation of Restoration Fund charges pursu-

1 ant to section 3407(d) (Public Law 102–575), of the
2 water service and repayment contractors making
3 prepayments pursuant to this section.

4 (e) WATER STORAGE ENHANCEMENT PROGRAM.—

5 (1) IN GENERAL.—Except as provided in sub-
6 section (d)(2), \$335,000,000 out of receipts gen-
7 erated from prepayment of contracts under this sec-
8 tion beyond amounts necessary to cover the amount
9 of receipts forgone from scheduled payments under
10 current law for the 10-year period following the date
11 of enactment of this Act shall be directed to the
12 Reclamation Water Storage Account under para-
13 graph (2).

14 (2) STORAGE ACCOUNT.—The Secretary shall
15 allocate amounts collected under paragraph (1) into
16 the “Reclamation Storage Account” to fund the con-
17 struction of water storage. The Secretary may also
18 enter into cooperative agreements with water users’
19 associations for the construction of water storage
20 and amounts within the Storage Account may be
21 used to fund such construction. Water storage
22 projects that are otherwise not federally authorized
23 shall not be considered Federal facilities as a result
24 of any amounts allocated from the Storage Account
25 for part or all of such facilities.

1 (3) REPAYMENT.—Amounts used for water
2 storage construction from the Account shall be fully
3 reimbursed to the Account consistent with the re-
4 quirements under Federal reclamation law (the Act
5 of June 17, 1902 (32 Stat. 388, chapter 1093), and
6 Acts supplemental to and amendatory of that Act
7 (43 U.S.C. 371 et seq.)) except that all funds reim-
8 bursed shall be deposited in the Account established
9 under paragraph (2).

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

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

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

17 (f) DEFINITIONS.—For the purposes of this subtitle,
18 the following definitions apply:

19 (1) ACCOUNT.—The term “Account” means the
20 Reclamation Water Storage Account established
21 under subsection (e)(2).

22 (2) CONSTRUCTION.—The term “construction”
23 means the designing, materials engineering and test-
24 ing, surveying, and building of water storage includ-
25 ing additions to existing water storage and construc-

1 tion of new water storage facilities, exclusive of any
2 Federal statutory or regulatory obligations relating
3 to any permit, review, approval, or other such re-
4 quirement.

5 (3) WATER STORAGE.—The term “water stor-
6 age” means any federally owned facility under the
7 jurisdiction of the Bureau of Reclamation or any
8 non-Federal facility used for the storage and supply
9 of water resources.

10 (4) TREASURY RATE.—The term “Treasury
11 rate” means the 20- year Constant Maturity Treas-
12 ury (CMT) rate published by the United States De-
13 partment of the Treasury existing on the effective
14 date of the contract.

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

17 (A) an entity organized and recognized
18 under State laws that is eligible to enter into
19 contracts with Reclamation to receive contract
20 water for delivery to end users of the water and
21 to pay applicable charges; and

22 (B) includes a variety of entities with dif-
23 ferent names and differing functions, such as
24 associations, conservancy districts, irrigation

1 districts, municipalities, and water project con-
2 tract units.

3 **SEC. 4012. SAVINGS LANGUAGE.**

4 (a) IN GENERAL.—This subtitle shall not be inter-
5 preted or implemented in a manner that—

6 (1) preempts or modifies any obligation of the
7 United States to act in conformance with applicable
8 State law, including applicable State water law;

9 (2) affects or modifies any obligation under the
10 Central Valley Project Improvement Act (Public
11 Law 102–575; 106 Stat. 4706), except for the sav-
12 ings provisions for the Stanislaus River predator
13 management program expressly established by sec-
14 tion 11(d) and provisions in section 11(g);

15 (3) overrides, modifies, or amends the applica-
16 bility of the Endangered Species Act of 1973 (16
17 U.S.C. 1531 et seq.) or the application of the smelt
18 and salmonid biological opinions to the operation of
19 the Central Valley Project or the State Water
20 Project;

21 (4) would cause additional adverse effects on
22 listed fish species beyond the range of effects antici-
23 pated to occur to the listed fish species for the dura-
24 tion of the applicable biological opinion, using the
25 best scientific and commercial data available; or

1 (5) overrides, modifies, or amends any obliga-
2 tion of the Pacific Fisheries Management Council,
3 required by the Magnuson Stevens Act or the En-
4 dangered Species Act of 1973, to manage fisheries
5 off the coast of California, Oregon, or Washington.

6 (b) SUCCESSOR BIOLOGICAL OPINIONS.—

7 (1) IN GENERAL.—The Secretaries of the Inte-
8 rior and Commerce shall apply this Act to any suc-
9 cessor biological opinions to the smelt or salmonid
10 biological opinions only to the extent that the Secre-
11 taries determine is consistent with—

12 (A) the Endangered Species Act of 1973
13 (16 U.S.C. 1531 et seq.), its implementing reg-
14 ulations, and the successor biological opinions;
15 and

16 (B) subsection (a)(4).

17 (2) LIMITATION.—Nothing in this Act shall re-
18 strict the Secretaries of the Interior and Commerce
19 from completing consultation on successor biological
20 opinions and through those successor biological opin-
21 ions implementing whatever adjustments in oper-
22 ations or other activities as may be required by the
23 Endangered Species Act of 1973 and its imple-
24 menting regulations.

1 (c) SEVERABILITY.—If any provision of this subtitle,
2 or any application of such provision to any person or cir-
3 cumstance, is held to be inconsistent with any law or the
4 biological opinions, the remainder of this subtitle and the
5 application of this subtitle to any other person or cir-
6 cumstance shall not be affected.

7 **SEC. 4013. DURATION.**

8 This subtitle shall expire on the date that is 5 years
9 after the date of its enactment, with the exception of—

10 (1) section 4004, which shall expire 10 years
11 after the date of its enactment; and

12 (2) projects under construction in sections
13 4007, 4009(a), and 4009(c).

14 **SEC. 4014. DEFINITIONS.**

15 In this subtitle:

16 (1) ASSISTANT ADMINISTRATOR.—The term
17 “Assistant Administrator” means the Assistant Ad-
18 ministrator for Fisheries of the National Oceanic
19 and Atmospheric Administration.

20 (2) CENTRAL VALLEY PROJECT.—The term
21 “Central Valley Project” has the meaning given the
22 term in section 3403 of the Central Valley Project
23 Improvement Act (Public Law 102–575; 106 Stat.
24 4707).

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

3 (4) DELTA.—The term “Delta” means the Sac-
4 ramento-San Joaquin Delta and the Suisun Marsh
5 (as defined in section 12220 of the California Water
6 Code and section 29101 of the California Public Re-
7 sources Code (as in effect on the date of enactment
8 of this Act)).

9 (5) DELTA SMELT.—The term “Delta smelt”
10 means the fish species with the scientific name
11 *Hypomesus transpacificus*.

12 (6) DIRECTOR.—The term “Director” means
13 the Director of the United States Fish and Wildlife
14 Service.

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

17 (A) any natural origin steelhead, natural
18 origin genetic spring run Chinook, or genetic
19 winter run Chinook salmon (including any
20 hatchery steelhead or salmon population within
21 the evolutionary significant unit or a distinct
22 population segment); and

23 (B) Delta smelt.

24 (8) RECLAMATION STATE.—The term “Rec-
25 lamation State” means any of the States of—

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

18 (9) SALMONID BIOLOGICAL OPINION.—

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

1 (B) INCLUSIONS.—The term “salmonid bi-
2 ological opinion” includes the operative inci-
3 dental take statement of the opinion described
4 in subparagraph (A).

5 (10) SMELT BIOLOGICAL OPINION.—

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

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

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

1 **TITLE IV—OTHER MATTERS**

2 **SEC. 5001. CONGRESSIONAL NOTIFICATION REQUIRE-**
3 **MENTS.**

4 (a) IN GENERAL.—Subchapter I of chapter 3 of title
5 49, United States Code, is amended by adding at the end
6 the following:

7 **“§ 311. Congressional notification requirements**

8 “(a) IN GENERAL.—Except as provided in subsection
9 (b) or as expressly provided in another provision of law,
10 the Secretary of Transportation shall provide to the appro-
11 priate committees of Congress notice of an announcement
12 concerning a covered project at least 3 full business days
13 before the announcement is made by the Department.

14 “(b) EMERGENCY PROGRAM.—With respect to an al-
15 location of funds under section 125 of title 23, the Sec-
16 retary shall provide to the Committee on Transportation
17 and Infrastructure of the House of Representatives and
18 the Committee on Environment and Public Works of the
19 Senate notice of the allocation—

20 “(1) at least 3 full business days before the
21 issuance of the allocation; or

22 “(2) concurrently with the issuance of the allo-
23 cation, if the allocation is made using the quick re-
24 lease process of the Department (or any successor
25 process).

1 “(c) DEFINITIONS.—In this section, the following
2 definitions apply:

3 “(1) APPROPRIATE COMMITTEES OF CON-
4 GRESS.—The term ‘appropriate committees of Con-
5 gress’ means—

6 “(A) the Committee on Transportation and
7 Infrastructure of the House of Representatives;
8 and

9 “(B) the Committee on Environment and
10 Public Works, the Committee on Commerce,
11 Science, and Transportation, and the Com-
12 mittee on Banking, Housing, and Urban Affairs
13 of the Senate.

14 “(2) COVERED PROJECT.—The term ‘covered
15 project’ means a project competitively selected by
16 the Department to receive a discretionary grant
17 award, letter of intent, loan commitment, loan guar-
18 antee commitment, or line of credit commitment in
19 an amount equal to or greater than \$750,000.

20 “(3) DEPARTMENT.—The term ‘Department’
21 means the Department of Transportation, including
22 the modal administrations of the Department.”.

23 (b) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 3 of title 49, United States Code, is amended by insert-
25 ing after the item relating to section 310 the following:

“311. Congressional notification requirements.”.

1 **SEC. 5002. REAUTHORIZATION OF DENALI COMMISSION.**

2 (a) ADMINISTRATION.—Section 303 of the Denali
3 Commission Act of 1998 (42 U.S.C. 3121 note; Public
4 Law 105–277) is amended—

5 (1) in subsection (c)—

6 (A) in the first sentence by striking “The
7 Federal Cochairperson” and inserting the fol-
8 lowing:

9 “(1) TERM OF FEDERAL COCHAIRPERSON.—
10 The Federal Cochairperson”;

11 (B) in the second sentence by striking “All
12 other members” and inserting the following:

13 “(3) TERM OF ALL OTHER MEMBERS.—All
14 other members”;

15 (C) in the third sentence by striking “Any
16 vacancy” and inserting the following:

17 “(4) VACANCIES.—Except as provided in para-
18 graph (2), any vacancy”; and

19 (D) by inserting before paragraph (3) (as
20 designated by subparagraph (B)) the following:

21 “(2) INTERIM FEDERAL COCHAIRPERSON.—In
22 the event of a vacancy for any reason in the position
23 of Federal Cochairperson, the Secretary may appoint
24 an Interim Federal Cochairperson, who shall have
25 all the authority of the Federal Cochairperson, to
26 serve until such time as the vacancy in the position

1 of Federal Cochairperson is filled in accordance with
2 subsection (b)(2)).”; and

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

4 “(f) NO FEDERAL EMPLOYEE STATUS.—No member
5 of the Commission, other than the Federal Cochairperson,
6 shall be considered to be a Federal employee for any pur-
7 pose.

8 “(g) CONFLICTS OF INTEREST.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graphs (2) and (3), no member of the Commission
11 (referred to in this subsection as a ‘member’) shall
12 participate personally or substantially, through rec-
13 ommendation, the rendering of advice, investigation,
14 or otherwise, in any proceeding, application, request
15 for a ruling or other determination, contract claim,
16 controversy, or other matter in which, to the knowl-
17 edge of the member, 1 or more of the following has
18 a direct financial interest:

19 “(A) The member.

20 “(B) The spouse, minor child, or partner
21 of the member.

22 “(C) An organization described in subpara-
23 graph (B), (C), (D), (E), or (F) of subsection
24 (b)(1) for which the member is serving as an
25 officer, director, trustee, partner, or employee.

1 “(D) Any individual, person, or organiza-
2 tion with which the member is negotiating or
3 has any arrangement concerning prospective
4 employment.

5 “(2) DISCLOSURE.—Paragraph (1) shall not
6 apply if the member—

7 “(A) immediately advises the designated
8 agency ethics official for the Commission of the
9 nature and circumstances of the matter pre-
10 sented a potential conflict of interest;

11 “(B) makes full disclosure of the financial
12 interest; and

13 “(C) before the proceeding concerning the
14 matter presenting the conflict of interest, re-
15 ceives a written determination by the des-
16 ignated agency ethics official for the Commis-
17 sion that the interest is not so substantial as to
18 be likely to affect the integrity of the services
19 that the Commission may expect from the mem-
20 ber. The written determination shall specify the
21 rationale and any evidence or support for the
22 decision, identify steps, if any, that should be
23 taken to mitigate any conflict of interest, and
24 be available to the public.

1 “(3) ANNUAL DISCLOSURES.—Once each cal-
2 endar year, each member shall make full disclosure
3 of financial interests, in a manner to be determined
4 by the designated agency ethics official for the Com-
5 mission.

6 “(4) TRAINING.—Once each calendar year, each
7 member shall undergo disclosure of financial inter-
8 ests training, as prescribed by the designated agency
9 ethics official for the Commission.

10 “(5) CLARIFICATION.—A member of the Com-
11 mission may continue to participate personally or
12 substantially, through decision, approval, or dis-
13 approval on the focus of applications to be consid-
14 ered but not on individual applications where a con-
15 flict of interest exists.

16 “(6) VIOLATION.—Any person that violates this
17 subsection shall be fined not more than \$10,000, im-
18 prisoned for not more than 2 years, or both.”.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—Section 310 of the Denali
21 Commission Act of 1998 (42 U.S.C. 3121 note;
22 Public Law 105–277) (as redesignated by section
23 1960(1) of SAFETEA–LU (Public Law 109–59;
24 119 Stat. 1516)) is amended, in subsection (a), by
25 striking “under section 4 under this Act” and all

1 that follows through “2008” and inserting “under
2 section 304, \$15,000,000 for each of fiscal years
3 2017 through 2021.”.

4 (2) CLERICAL AMENDMENT.—Section 310 of
5 the Denali Commission Act of 1998 (42 U.S.C.
6 3121 note; Public Law 105–277) (as redesignated
7 by section 1960(1) of SAFETEA–LU (Public Law
8 109–59; 119 Stat. 1516)) is redesignated as section
9 312.

10 **SEC. 5003. RECREATIONAL ACCESS FOR FLOATING CABINS**

11 **AT TVA RESERVOIRS.**

12 The Tennessee Valley Authority Act of 1933 is
13 amended by inserting after section 9a (16 U.S.C. 831h-
14 1) the following:

15 **“SEC. 9b. RECREATIONAL ACCESS.**

16 “(a) DEFINITION OF FLOATING CABIN.—In this sec-
17 tion, the term ‘floating cabin’ means a watercraft or other
18 floating structure—

19 “(1) primarily designed and used for human
20 habitation or occupation; and

21 “(2) not primarily designed or used for naviga-
22 tion or transportation on water.

23 “(b) RECREATIONAL ACCESS.—The Board may allow
24 the use of a floating cabin if—

1 “(1) the floating cabin is maintained by the
2 owner to reasonable health, safety, and environ-
3 mental standards, as required by the Board;

4 “(2) the Corporation has authorized the use of
5 recreational vessels on the waters; and

6 “(3) the floating cabin was located on waters
7 under the jurisdiction of the Corporation as of the
8 date of enactment of this section.

9 “(c) FEES.—The Board may levy fees on the owner
10 of a floating cabin on waters under the jurisdiction of the
11 Corporation for the purpose of ensuring compliance with
12 subsection (b) if the fees are necessary and reasonable for
13 such purpose.

14 “(d) CONTINUED RECREATIONAL USE.—

15 “(1) IN GENERAL.—With respect to a floating
16 cabin located on waters under the jurisdiction of the
17 Corporation on the date of enactment of this section,
18 the Board—

19 “(A) may not require the removal of the
20 floating cabin—

21 “(i) in the case of a floating cabin
22 that was granted a permit by the Corpora-
23 tion before the date of enactment of this
24 section, for a period of 15 years beginning
25 on such date of enactment; and

1 “(ii) in the case of a floating cabin
2 not granted a permit by the Corporation
3 before the date of enactment of this sec-
4 tion, for a period of 5 years beginning on
5 such date of enactment; and

6 “(B) shall approve and allow the use of the
7 floating cabin on waters under the jurisdiction
8 of the Corporation at such time and for such
9 duration as—

10 “(i) the floating cabin meets the re-
11 quirements of subsection (b); and

12 “(ii) the owner of the floating cabin
13 has paid any fee assessed pursuant to sub-
14 section (c).

15 “(2) SAVINGS PROVISIONS.—

16 “(A) Nothing in this subsection restricts
17 the ability of the Corporation to enforce reason-
18 able health, safety, or environmental standards.

19 “(B) This section applies only to floating
20 cabins located on waters under the jurisdiction
21 of the Corporation.

22 “(e) NEW CONSTRUCTION.—The Corporation may
23 establish regulations to prevent the construction of new
24 floating cabins.”.

1 **SEC. 5004. GOLD KING MINE SPILL RECOVERY.**

2 (a) DEFINITIONS.—In this section:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the Environ-
5 mental Protection Agency.

6 (2) CLAIMANT.—The term “claimant” means a
7 State, Indian tribe, or local government that submits
8 a claim under subsection (c).

9 (3) GOLD KING MINE RELEASE.—The term
10 “Gold King Mine release” means the discharge on
11 August 5, 2015, of approximately 3,000,000 gallons
12 of contaminated water from the Gold King Mine
13 north of Silverton, Colorado, into Cement Creek that
14 occurred while contractors of the Environmental
15 Protection Agency were conducting an investigation
16 of the Gold King Mine to assess mine conditions.

17 (4) NATIONAL CONTINGENCY PLAN.—The term
18 “National Contingency Plan” means the National
19 Contingency Plan prepared and published under
20 part 300 of title 40, Code of Federal Regulations (or
21 successor regulations).

22 (5) RESPONSE.—The term “response” has the
23 meaning given the term in section 101 of the Com-
24 prehensive Environmental Response, Compensation,
25 and Liability Act of 1980 (42 U.S.C. 9601).

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the Administrator should receive and process,
3 as expeditiously as possible, claims under chapter 171 of
4 title 28, United States Code (commonly known as the
5 “Federal Tort Claims Act”) for any injury arising out of
6 the Gold King Mine release.

7 (c) GOLD KING MINE RELEASE CLAIMS PURSUANT
8 TO COMPREHENSIVE ENVIRONMENTAL RESPONSE, COM-
9 PENSATION, AND LIABILITY ACT.—

10 (1) IN GENERAL.—The Administrator shall,
11 consistent with the National Contingency Plan, re-
12 ceive and process under the Comprehensive Environ-
13 mental Response, Compensation, and Liability Act
14 of 1980 (42 U.S.C. 9601 et seq.), and pay from ap-
15 propriations made available to the Administrator to
16 carry out such Act, any claim made by a State, In-
17 dian tribe, or local government for eligible response
18 costs relating to the Gold King Mine release.

19 (2) ELIGIBLE RESPONSE COSTS.—

20 (A) IN GENERAL.—Response costs in-
21 curred between August 5, 2015, and September
22 9, 2016, are eligible for payment by the Admin-
23 istrator under this subsection, without prior ap-
24 proval by the Administrator, if the response

1 costs are consistent with the National Contingency Plan.
2

3 (B) PRIOR APPROVAL REQUIRED.—Response costs incurred after September 9, 2016,
4 are eligible for payment by the Administrator
5 under this subsection if—
6

7 (i) the Administrator approves the re-
8 sponse costs under section 111(a)(2) of the
9 Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980
11 (42 U.S.C. 9611(a)(2)); and

12 (ii) the response costs are consistent
13 with the National Contingency Plan.

14 (3) TIMING.—

15 (A) IN GENERAL.—Not later than 90 days
16 after the date of enactment of this Act, the Ad-
17 ministrator shall make a decision on, and pay,
18 any eligible response costs submitted to the Ad-
19 ministrator before such date of enactment.

20 (B) SUBSEQUENTLY FILED CLAIMS.—Not
21 later than 90 days after the date on which a
22 claim is submitted to the Administrator, the
23 Administrator shall make a decision on, and
24 pay, any eligible response costs.

1 (C) DEADLINE.—All claims under this
2 subsection shall be submitted to the Adminis-
3 trator not later than 180 days after the date of
4 enactment of this Act.

5 (D) NOTIFICATION.—Not later than 30
6 days after the date on which the Administrator
7 makes a decision under subparagraph (A) or
8 (B), the Administrator shall notify the claimant
9 of the decision.

10 (d) WATER QUALITY PROGRAM.—

11 (1) IN GENERAL.—In response to the Gold
12 King Mine release, the Administrator, in conjunction
13 with affected States, Indian tribes, and local govern-
14 ments, shall, subject to the availability of appropria-
15 tions, develop and implement a program for long-
16 term water quality monitoring of rivers contami-
17 nated by the Gold King Mine release.

18 (2) REQUIREMENTS.—In carrying out the pro-
19 gram described in paragraph (1), the Administrator,
20 in conjunction with affected States, Indian tribes,
21 and local governments, shall—

22 (A) collect water quality samples and sedi-
23 ment data;

24 (B) provide the public with a means of
25 viewing the water quality sample results and

1 sediment data referred to in subparagraph (A)
2 by, at a minimum, posting the information on
3 the website of the Administrator;

4 (C) take any other reasonable measure
5 necessary to assist affected States, Indian
6 tribes, and local governments with long-term
7 water monitoring; and

8 (D) carry out additional program activities
9 related to long-term water quality monitoring
10 that the Administrator determines to be nec-
11 essary.

12 (3) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated to the Ad-
14 ministrator \$4,000,000.00 for each of fiscal years
15 2017 through 2021 to carry out this subsection, in-
16 cluding the reimbursement of affected States, Indian
17 tribes, and local governments for the costs of long-
18 term water quality monitoring of any river contami-
19 nated by the Gold King Mine release.

20 (e) EXISTING STATE AND TRIBAL LAW.—Nothing in
21 this section affects the jurisdiction or authority of any de-
22 partment, agency, or officer of any State government or
23 any Indian tribe.

24 (f) SAVINGS CLAUSE.—Nothing in this section affects
25 any right of any State, Indian tribe, or other person to

1 bring a claim against the United States for response costs
2 or natural resources damages pursuant to section 107 of
3 the Comprehensive Environmental Response, Compensa-
4 tion, and Liability Act of 1980 (42 U.S.C. 9607).

5 **SEC. 5005. GREAT LAKES RESTORATION INITIATIVE.**

6 Section 118(c)(7) of the Federal Water Pollution
7 Control Act (33 U.S.C. 1268(c)(7)) is amended—

8 (1) by striking subparagraphs (B) and (C) and
9 inserting the following:

10 “(B) FOCUS AREAS.—In carrying out the
11 Initiative, the Administrator shall prioritize pro-
12 grams and projects, to be carried out in coordi-
13 nation with non-Federal partners, that address
14 the priority areas described in the Initiative Ac-
15 tion Plan, including—

16 “(i) the remediation of toxic sub-
17 stances and areas of concern;

18 “(ii) the prevention and control of
19 invasive species and the impacts of invasive
20 species;

21 “(iii) the protection and restoration of
22 nearshore health and the prevention and
23 mitigation of nonpoint source pollution;

1 “(iv) habitat and wildlife protection
2 and restoration, including wetlands res-
3 toration and preservation; and

4 “(v) accountability, monitoring, eval-
5 uation, communication, and partnership
6 activities.

7 “(C) PROJECTS.—

8 “(i) IN GENERAL.—In carrying out
9 the Initiative, the Administrator shall col-
10 laborate with other Federal partners, in-
11 cluding the Great Lakes Interagency Task
12 Force established by Executive Order No.
13 13340 (69 Fed. Reg. 29043), to select the
14 best combination of programs and projects
15 for Great Lakes protection and restoration
16 using appropriate principles and criteria,
17 including whether a program or project
18 provides—

19 “(I) the ability to achieve stra-
20 tegic and measurable environmental
21 outcomes that implement the Initia-
22 tive Action Plan and the Great Lakes
23 Water Quality Agreement;

24 “(II) the feasibility of—

1 “(aa) prompt implementa-
2 tion;

3 “(bb) timely achievement of
4 results; and

5 “(cc) resource leveraging;
6 and

7 “(III) the opportunity to improve
8 interagency, intergovernmental, and
9 interorganizational coordination and
10 collaboration to reduce duplication
11 and streamline efforts.

12 “(ii) OUTREACH.—In selecting the
13 best combination of programs and projects
14 for Great Lakes protection and restoration
15 under clause (i), the Administrator shall
16 consult with the Great Lakes States and
17 Indian tribes and solicit input from other
18 non-Federal stakeholders.

19 “(iii) HARMFUL ALGAL BLOOM COOR-
20 DINATOR.—The Administrator shall des-
21 ignate a point person from an appropriate
22 Federal partner to coordinate, with Fed-
23 eral partners and Great Lakes States, In-
24 dian tribes, and other non-Federal stake-
25 holders, projects and activities under the

1 Initiative involving harmful algal blooms in
2 the Great Lakes.”;

3 (2) in subparagraph (D)—

4 (A) by striking clause (i) and inserting the
5 following:

6 “(i) IN GENERAL.—Subject to sub-
7 paragraph (J)(ii), funds made available to
8 carry out the Initiative shall be used to
9 strategically implement—

10 “(I) Federal projects;

11 “(II) projects carried out in co-
12 ordination with States, Indian tribes,
13 municipalities, institutions of higher
14 education, and other organizations;
15 and

16 “(III) operations and activities of
17 the Program Office, including remedi-
18 ation of sediment contamination in
19 areas of concern.”;

20 (B) in clause (ii)(I), by striking “(G)(i)”
21 and inserting “(J)(i)”; and

22 (C) by inserting after clause (ii) the fol-
23 lowing:

24 “(iii) AGREEMENTS WITH NON-FED-
25 ERAL ENTITIES.—

1 “(I) IN GENERAL.—The Admin-
2 istrator, or the head of any other Fed-
3 eral department or agency receiving
4 funds under clause (ii)(I), may make
5 a grant to, or otherwise enter into an
6 agreement with, a qualified non-Fed-
7 eral entity, as determined by the Ad-
8 ministrator or the applicable head of
9 the other Federal department or agen-
10 cy receiving funds, for planning, re-
11 search, monitoring, outreach, or im-
12 plementation of a project selected
13 under subparagraph (C), to support
14 the Initiative Action Plan or the Great
15 Lakes Water Quality Agreement.

16 “(II) QUALIFIED NON-FEDERAL
17 ENTITY.—For purposes of this clause,
18 a qualified non-Federal entity may in-
19 clude a governmental entity, nonprofit
20 organization, institution, or indi-
21 vidual.”; and

22 (3) by striking subparagraphs (E) through (G)
23 and inserting the following:

24 “(E) SCOPE.—

1 “(i) IN GENERAL.—Projects may be
2 carried out under the Initiative on multiple
3 levels, including—

4 “(I) locally;

5 “(II) Great Lakes-wide; or

6 “(III) Great Lakes basin-wide.

7 “(ii) LIMITATION.—No funds made
8 available to carry out the Initiative may be
9 used for any water infrastructure activity
10 (other than a green infrastructure project
11 that improves habitat and other ecosystem
12 functions in the Great Lakes) for which fi-
13 nancial assistance is received—

14 “(I) from a State water pollution
15 control revolving fund established
16 under title VI;

17 “(II) from a State drinking water
18 revolving loan fund established under
19 section 1452 of the Safe Drinking
20 Water Act (42 U.S.C. 300j–12); or

21 “(III) pursuant to the Water In-
22 frastructure Finance and Innovation
23 Act of 2014 (33 U.S.C. 3901 et seq.).

24 “(F) ACTIVITIES BY OTHER FEDERAL
25 AGENCIES.—Each relevant Federal department

1 or agency shall, to the maximum extent prac-
2 ticable—

3 “(i) maintain the base level of funding
4 for the Great Lakes activities of that de-
5 partment or agency without regard to
6 funding under the Initiative; and

7 “(ii) identify new activities and
8 projects to support the environmental goals
9 of the Initiative.

10 “(G) REVISION OF INITIATIVE ACTION
11 PLAN.—

12 “(i) IN GENERAL.—Not less often
13 than once every 5 years, the Adminis-
14 trator, in conjunction with the Great Lakes
15 Interagency Task Force, shall review, and
16 revise as appropriate, the Initiative Action
17 Plan to guide the activities of the Initiative
18 in addressing the restoration and protec-
19 tion of the Great Lakes system.

20 “(ii) OUTREACH.—In reviewing and
21 revising the Initiative Action Plan under
22 clause (i), the Administrator shall consult
23 with the Great Lakes States and Indian
24 tribes and solicit input from other non-
25 Federal stakeholders.

1 “(H) MONITORING AND REPORTING.—The
2 Administrator shall—

3 “(i) establish and maintain a process
4 for monitoring and periodically reporting
5 to the public on the progress made in im-
6 plementing the Initiative Action Plan;

7 “(ii) make information about each
8 project carried out under the Initiative Ac-
9 tion Plan available on a public website; and

10 “(iii) provide to the Committee on
11 Transportation and Infrastructure of the
12 House of Representatives and the Com-
13 mittee on Environment and Public Works
14 of the Senate a yearly detailed description
15 of the progress of the Initiative and
16 amounts transferred to participating Fed-
17 eral departments and agencies under sub-
18 paragraph (D)(ii).

19 “(I) INITIATIVE ACTION PLAN DEFINED.—
20 In this paragraph, the term ‘Initiative Action
21 Plan’ means the comprehensive, multiyear ac-
22 tion plan for the restoration of the Great
23 Lakes, first developed pursuant to the Joint
24 Explanatory Statement of the Conference Re-
25 port accompanying the Department of the Inte-

1 prior, Environment, and Related Agencies Ap-
2 propriations Act, 2010 (Public Law 111–88).

3 “(J) FUNDING.—

4 “(i) IN GENERAL.—There is author-
5 ized to be appropriated to carry out this
6 paragraph \$300,000,000 for each of fiscal
7 years 2017 through 2021.

8 “(ii) LIMITATION.—Nothing in this
9 paragraph creates, expands, or amends the
10 authority of the Administrator to imple-
11 ment programs or projects under—

12 “(I) this section;

13 “(II) the Initiative Action Plan;

14 or

15 “(III) the Great Lakes Water
16 Quality Agreement.”.

17 **SEC. 5006. REHABILITATION OF HIGH HAZARD POTENTIAL**
18 **DAMS.**

19 (a) DEFINITIONS.—Section 2 of the National Dam
20 Safety Program Act (33 U.S.C. 467) is amended—

21 (1) by redesignating paragraphs (4), (5), (6),
22 (7), (8), (9), (10), (11), (12), and (13) as para-
23 graphs (5), (6), (7), (8), (9), (11), (13), (14), (15),
24 and (16), respectively;

1 (2) by inserting after paragraph (3) the fol-
2 lowing:

3 “(4) ELIGIBLE HIGH HAZARD POTENTIAL
4 DAM.—

5 “(A) IN GENERAL.—The term ‘eligible
6 high hazard potential dam’ means a non-Fed-
7 eral dam that—

8 “(i) is located in a State with a State
9 dam safety program;

10 “(ii) is classified as ‘high hazard po-
11 tential’ by the State dam safety agency in
12 the State in which the dam is located;

13 “(iii) has an emergency action plan
14 approved by the relevant State dam safety
15 agency; and

16 “(iv) the State in which the dam is lo-
17 cated determines—

18 “(I) fails to meet minimum dam
19 safety standards of the State; and

20 “(II) poses an unacceptable risk
21 to the public.

22 “(B) EXCLUSION.—The term ‘eligible high
23 hazard potential dam’ does not include—

24 “(i) a licensed hydroelectric dam; or

1 “(ii) a dam built under the authority
2 of the Secretary of Agriculture.”;

3 (3) by inserting after paragraph (9) (as redesignated by paragraph (1) of this subsection) the following:

6 “(10) NON-FEDERAL SPONSOR.—The term
7 ‘non-Federal sponsor’, in the case of a project receiving assistance under section 8A, includes—

9 “(A) a governmental organization; and

10 “(B) a nonprofit organization.”; and

11 (4) by inserting after paragraph (11) (as redesignated by paragraph (1) of this subsection) the following:

14 “(12) REHABILITATION.—The term ‘rehabilitation’ means the repair, replacement, reconstruction, or removal of a dam that is carried out to meet applicable State dam safety and security standards.”.

18 (b) PROGRAM FOR REHABILITATION OF HIGH HAZARD POTENTIAL DAMS.—The National Dam Safety Program Act is amended by inserting after section 8 (33 U.S.C. 467f) the following:

22 **“SEC. 8A. REHABILITATION OF HIGH HAZARD POTENTIAL DAMS.**

24 “(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish, within FEMA, a program to provide

1 technical, planning, design, and construction assistance in
2 the form of grants to non-Federal sponsors for rehabilita-
3 tion of eligible high hazard potential dams.

4 “(b) ELIGIBLE ACTIVITIES.—A grant awarded under
5 this section for a project may be used for—

6 “(1) repair;

7 “(2) removal; or

8 “(3) any other structural or nonstructural
9 measures to rehabilitate an eligible high hazard po-
10 tential dam.

11 “(c) AWARD OF GRANTS.—

12 “(1) APPLICATION.—

13 “(A) IN GENERAL.—A non-Federal spon-
14 sor interested in receiving a grant under this
15 section may submit to the Administrator an ap-
16 plication for the grant.

17 “(B) REQUIREMENTS.—An application
18 submitted to the Administrator under this sec-
19 tion shall be submitted at such time, be in such
20 form, and contain such information as the Ad-
21 ministrator may prescribe by regulation.

22 “(2) GRANT.—

23 “(A) IN GENERAL.—The Administrator
24 may make a grant in accordance with this sec-
25 tion for rehabilitation of an eligible high hazard

1 potential dam to a non-Federal sponsor that
2 submits an application for the grant in accord-
3 ance with the regulations prescribed by the Ad-
4 ministrator.

5 “(B) PROJECT GRANT AGREEMENT.—The
6 Administrator shall enter into a project grant
7 agreement with the non-Federal sponsor to es-
8 tablish the terms of the grant and the project,
9 including the amount of the grant.

10 “(C) GRANT ASSURANCE.—As part of a
11 project grant agreement under subparagraph
12 (B), the Administrator shall require the non-
13 Federal sponsor to provide an assurance, with
14 respect to the dam to be rehabilitated under the
15 project, that the owner of the dam has devel-
16 oped and will carry out a plan for maintenance
17 of the dam during the expected life of the dam.

18 “(D) LIMITATION.—A grant provided
19 under this section shall not exceed the lesser
20 of—

21 “(i) 12.5 percent of the total amount
22 of funds made available to carry out this
23 section; or

24 “(ii) \$7,500,000.

25 “(d) REQUIREMENTS.—

1 “(1) APPROVAL.—A grant awarded under this
2 section for a project shall be approved by the rel-
3 evant State dam safety agency.

4 “(2) NON-FEDERAL SPONSOR REQUIRE-
5 MENTS.—To receive a grant under this section, the
6 non-Federal sponsor shall—

7 “(A) participate in, and comply with, all
8 applicable Federal flood insurance programs;

9 “(B) have in place a hazard mitigation
10 plan that—

11 “(i) includes all dam risks; and

12 “(ii) complies with the Disaster Miti-
13 gation Act of 2000 (Public Law 106–390;
14 114 Stat. 1552);

15 “(C) commit to provide operation and
16 maintenance of the project for the 50-year pe-
17 riod following completion of rehabilitation;

18 “(D) comply with such minimum eligibility
19 requirements as the Administrator may estab-
20 lish to ensure that each owner and operator of
21 a dam under a participating State dam safety
22 program and that receives assistance under this
23 section—

24 “(i) acts in accordance with the State
25 dam safety program; and

1 “(ii) carries out activities relating to
2 the public in the area around the dam in
3 accordance with the hazard mitigation plan
4 described in subparagraph (B); and

5 “(E) comply with section 611(j)(9) of the
6 Robert T. Stafford Disaster Relief and Emer-
7 gency Assistance Act (42 U.S.C. 5196(j)(9))
8 (as in effect on the date of enactment of this
9 section) with respect to projects receiving as-
10 sistance under this section in the same manner
11 as recipients are required to comply in order to
12 receive financial contributions from the Admin-
13 istrator for emergency preparedness purposes.

14 “(e) FLOODPLAIN MANAGEMENT PLANS.—

15 “(1) IN GENERAL.—As a condition of receipt of
16 assistance under this section, the non-Federal spon-
17 sor shall demonstrate that a floodplain management
18 plan to reduce the impacts of future flood events in
19 the area protected by the project—

20 “(A) is in place; or

21 “(B) will be—

22 “(i) developed not later than 1 year
23 after the date of execution of a project
24 agreement for assistance under this sec-
25 tion; and

1 “(ii) implemented not later than 1
2 year after the date of completion of con-
3 struction of the project.

4 “(2) INCLUSIONS.—A plan under paragraph (1)
5 shall address—

6 “(A) potential measures, practices, and
7 policies to reduce loss of life, injuries, damage
8 to property and facilities, public expenditures,
9 and other adverse impacts of flooding in the
10 area protected by the project;

11 “(B) plans for flood fighting and evacu-
12 ation; and

13 “(C) public education and awareness of
14 flood risks.

15 “(3) TECHNICAL SUPPORT.—The Administrator
16 may provide technical support for the development
17 and implementation of floodplain management plans
18 prepared under this subsection.

19 “(f) PRIORITY SYSTEM.—The Administrator, in con-
20 sultation with the Board, shall develop a risk-based pri-
21 ority system for use in identifying eligible high hazard po-
22 tential dams for which grants may be made under this
23 section.

24 “(g) FUNDING.—

25 “(1) COST SHARING.—

1 “(A) IN GENERAL.—Any assistance pro-
2 vided under this section for a project shall be
3 subject to a non-Federal cost-sharing require-
4 ment of not less than 35 percent.

5 “(B) IN-KIND CONTRIBUTIONS.—The non-
6 Federal share under subparagraph (A) may be
7 provided in the form of in-kind contributions.

8 “(2) ALLOCATION OF FUNDS.—The total
9 amount of funds made available to carry out this
10 section for each fiscal year shall be distributed as
11 follows:

12 “(A) EQUAL DISTRIBUTION.— $\frac{1}{3}$ shall be
13 distributed equally among the States in which
14 the projects for which applications are sub-
15 mitted under subsection (c)(1) are located.

16 “(B) NEED-BASED.— $\frac{2}{3}$ shall be distrib-
17 uted among the States in which the projects for
18 which applications are submitted under sub-
19 section (c)(1) are located based on the propor-
20 tion that—

21 “(i) the number of eligible high haz-
22 ard potential dams in the State; bears to

23 “(ii) the number of eligible high haz-
24 ard potential dams in all such States.

1 “(h) USE OF FUNDS.—None of the funds provided
2 in the form of a grant or otherwise made available under
3 this section shall be used—

4 “(1) to rehabilitate a Federal dam;

5 “(2) to perform routine operation or mainte-
6 nance of a dam;

7 “(3) to modify a dam to produce hydroelectric
8 power;

9 “(4) to increase water supply storage capacity;
10 or

11 “(5) to make any other modification to a dam
12 that does not also improve the safety of the dam.

13 “(i) CONTRACTUAL REQUIREMENTS.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 as a condition on the receipt of a grant under this
16 section of an amount greater than \$1,000,000, a
17 non-Federal sponsor that receives the grant shall re-
18 quire that each contract and subcontract for pro-
19 gram management, construction management, plan-
20 ning studies, feasibility studies, architectural serv-
21 ices, preliminary engineering, design, engineering,
22 surveying, mapping, and related services entered
23 into using funds from the grant be awarded in the
24 same manner as a contract for architectural and en-
25 gineering services is awarded under—

1 “(A) chapter 11 of title 40, United States
2 Code; or

3 “(B) an equivalent qualifications-based re-
4 quirement prescribed by the relevant State.

5 “(2) NO PROPRIETARY INTEREST.—A contract
6 awarded in accordance with paragraph (1) shall not
7 be considered to confer a proprietary interest upon
8 the United States.

9 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to carry out this sec-
11 tion—

12 “(1) \$10,000,000 for fiscal years 2017 and
13 2018;

14 “(2) \$25,000,000 for fiscal year 2019;

15 “(3) \$40,000,000 for fiscal year 2020; and

16 “(4) \$60,000,000 for each of fiscal years 2021
17 through 2026.”.

18 (c) RULEMAKING.—

19 (1) PROPOSED RULEMAKING.—Not later than
20 90 days after the date of enactment of this Act, the
21 Administrator of the Federal Emergency Manage-
22 ment Agency shall issue a notice of proposed rule-
23 making regarding applications for grants of assist-
24 ance under the amendments made by subsection (b)

1 to the National Dam Safety Program Act (33
2 U.S.C. 467 et seq.).

3 (2) FINAL RULE.—Not later than 180 days
4 after the date of enactment of this Act, the Adminis-
5 trator of the Federal Emergency Management Agen-
6 cy shall promulgate a final rule regarding the
7 amendments described in paragraph (1).

8 **SEC. 5007. CHESAPEAKE BAY GRASS SURVEY.**

9 Section 117(i) of the Federal Water Pollution Control
10 Act (33 U.S.C. 1267(i)) is amended by adding at the end
11 the following:

12 “(3) ANNUAL SURVEY.—The Administrator
13 shall carry out an annual survey of sea grasses in
14 the Chesapeake Bay.”.

15 **SEC. 5008. WATER INFRASTRUCTURE FINANCE AND INNO-**
16 **VATION.**

17 (a) AUTHORITY TO PROVIDE ASSISTANCE.—Section
18 5023(b)(2) of the Water Infrastructure Finance and Inno-
19 vation Act of 2014 (33 U.S.C. 3902(b)(2)) is amended
20 by striking “carry out” and inserting “provide financial
21 assistance to carry out”.

22 (b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

23 (1) IN GENERAL.—Section 5026 of the Water
24 Infrastructure Finance and Innovation Act of 2014
25 (33 U.S.C. 3905) is amended—

1 (A) in paragraph (6)—

2 (i) by striking “desalination project”
3 and inserting “desalination project, includ-
4 ing chloride control”; and

5 (ii) by striking “or a water recycling
6 project” and inserting “a water recycling
7 project, or a project to provide alternative
8 water supplies to reduce aquifer deple-
9 tion”;

10 (B) by redesignating paragraphs (7), (8),
11 and (9) as paragraphs (8), (9), and (10), re-
12 spectively;

13 (C) by inserting after paragraph (6) the
14 following:

15 “(7) A project to prevent, reduce, or mitigate
16 the effects of drought, including projects that en-
17 hance the resilience of drought-stricken water-
18 sheds.”; and

19 (D) in paragraph (10) (as redesignated by
20 subparagraph (B)), by striking “or (7)” and in-
21 serting “(7), or (8)”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 5023(b) of the Water Infra-
24 structure Finance and Innovation Act of 2014
25 (33 U.S.C. 3902(b)) is amended—

1 (i) in paragraph (2) by striking “and
2 (8)” and inserting “(7), and (9)”; and

3 (ii) in paragraph (3) by striking
4 “paragraph (7) or (9)” and inserting
5 “paragraph (8) or (10)”.

6 (B) Section 5024(b) of the Water Infra-
7 structure Finance and Innovation Act of 2014
8 (33 U.S.C. 3903(b)) is amended by striking
9 “paragraph (8) or (9)” and inserting “para-
10 graph (9) or (10)”.

11 (C) Section 5027(3) of the Water Infra-
12 structure Finance and Innovation Act of 2014
13 (33 U.S.C. 3906(3)) is amended by striking
14 “section 5026(7)” and inserting “section
15 5026(8)”.

16 (D) Section 5028 of the Water Infrastruc-
17 ture Finance and Innovation Act of 2014 (33
18 U.S.C. 3907) is amended—

19 (i) in subsection (a)(1)(E)—

20 (I) by striking “section 5026(9)”
21 and inserting “section 5026(10)”; and

22 (II) by striking “section
23 5026(8)” and inserting “section
24 5026(9)”; and

1 (ii) in subsection (b)(3) by striking
2 “section 5026(8)” and inserting “section
3 5026(9)”.

4 (c) TERMS AND CONDITIONS.—Section 5029(b) of
5 the Water Infrastructure Finance and Innovation Act of
6 2014 (33 U.S.C. 3908(b)) is amended—

7 (1) in paragraph (7)—

8 (A) by striking “The Secretary” and in-
9 serting the following:

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), the Secretary”; and

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

13 “(B) FINANCING FEES.—On request of an
14 eligible entity, the Secretary or the Adminis-
15 trator, as applicable, shall allow the fees under
16 subparagraph (A) to be financed as part of the
17 loan.”; and

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

19 “(10) CREDIT.—Any eligible project costs in-
20 curred and the value of any integral in-kind con-
21 tributions made before receipt of assistance under
22 this subtitle shall be credited toward the 51 percent
23 of project costs to be provided by sources of funding
24 other than a secured loan under this subtitle (as de-
25 scribed in paragraph (2)(A)).”.

1 (d) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) appropriations made available to carry out
4 the Water Infrastructure Finance and Innovation
5 Act of 2014 (33 U.S.C. 3901 et seq.) should be in
6 addition to robust funding for the State water pollu-
7 tion control revolving funds established under title
8 VI of the Federal Water Pollution Control Act (33
9 U.S.C. 1381 et seq.) and State drinking water treat-
10 ment revolving loan funds established under section
11 1452 of the Safe Drinking Water Act (42 U.S.C.
12 300j–12); and

13 (2) the appropriations made available for the
14 funds referred to in paragraph (1) should not de-
15 crease for any fiscal year.

16 **SEC. 5009. REPORT ON GROUNDWATER CONTAMINATION.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date of enactment of this Act, and annually thereafter for
19 the next 4 years, the Secretary of the Navy shall submit
20 a report to Congress on the groundwater contamination
21 from the site that includes—

22 (1) a description of the status of the ground-
23 water contaminants that are leaving the site and mi-
24 grating to a location within a 10-mile radius of the
25 site, including—

1 (A) detailed mapping of the movement of
2 the plume over time; and

3 (B) projected migration rates of the plume;

4 (2) an analysis of the current and future im-
5 pact of the movement of the plume on drinking
6 water facilities; and

7 (3) a comprehensive strategy to prevent the
8 groundwater contaminants from the site from con-
9 taminating drinking water wells that, as of the date
10 of the submission of the report, have not been af-
11 fected by the migration of the plume.

12 (b) DEFINITIONS.—In this section, the following defi-
13 nitions apply:

14 (1) COMPREHENSIVE STRATEGY.—The term
15 “comprehensive strategy” means a plan for—

16 (A) the remediation of the plume under the
17 Comprehensive Environmental Response, Com-
18 pensation, and Liability Act of 1980 (42 U.S.C.
19 9601 et seq.); or

20 (B) corrective action under the Solid
21 Waste Disposal Act (42 U.S.C. 6901 et seq.).

22 (2) GROUNDWATER.—The term “groundwater”
23 means water in a saturated zone or stratum beneath
24 the surface of land or water.

1 (3) PLUME.—The term “plume” means any
2 hazardous waste (as defined in section 1004 of the
3 Solid Waste Disposal Act (42 U.S.C. 6903)) or haz-
4 ardous substance (as defined in section 101 of the
5 Comprehensive Environmental Response, Compensa-
6 tion, and Liability Act of 1980 (42 U.S.C. 9601))
7 found in the groundwater supply.

8 (4) SITE.—The term “site” means the site lo-
9 cated at 830 South Oyster Bay Road, Bethpage,
10 New York, 11714 (Environmental Protection Agency
11 identification number NYD002047967).

12 **SEC. 5010. COLUMBIA RIVER BASIN RESTORATION.**

13 Title I of the Federal Water Pollution Control Act
14 (33 U.S.C. 1251 et seq.) is amended by adding at the end
15 the following:

16 **“SEC. 123. COLUMBIA RIVER BASIN RESTORATION.**

17 “(a) DEFINITIONS.—In this section, the following
18 definitions apply:

19 “(1) COLUMBIA RIVER BASIN.—The term ‘Co-
20 lumbia River Basin’ means the entire United States
21 portion of the Columbia River watershed.

22 “(2) ESTUARY PARTNERSHIP.—The term ‘Es-
23 tuary Partnership’ means the Lower Columbia Estu-
24 ary Partnership, an entity created by the States of

1 Oregon and Washington and the Environmental
2 Protection Agency under section 320.

3 “(3) ESTUARY PLAN.—

4 “(A) IN GENERAL.—The term ‘Estuary
5 Plan’ means the Estuary Partnership Com-
6 prehensive Conservation and Management Plan
7 adopted by the Environmental Protection Agen-
8 cy and the Governors of Oregon and Wash-
9 ington on October 20, 1999, under section 320.

10 “(B) INCLUSION.—The term ‘Estuary
11 Plan’ includes any amendments to the plan.

12 “(4) LOWER COLUMBIA RIVER ESTUARY.—The
13 term ‘Lower Columbia River Estuary’ means the
14 mainstem Columbia River from the Bonneville Dam
15 to the Pacific Ocean and tidally influenced portions
16 of tributaries to the Columbia River in that region.

17 “(5) MIDDLE AND UPPER COLUMBIA RIVER
18 BASIN.—The term ‘Middle and Upper Columbia
19 River Basin’ means the region consisting of the
20 United States portion of the Columbia River Basin
21 above Bonneville Dam.

22 “(6) PROGRAM.—The term ‘Program’ means
23 the Columbia River Basin Restoration Program es-
24 tablished under subsection (b)(1)(A).

1 “(b) COLUMBIA RIVER BASIN RESTORATION PRO-
2 GRAM.—

3 “(1) ESTABLISHMENT.—

4 “(A) IN GENERAL.—The Administrator
5 shall establish within the Environmental Protec-
6 tion Agency a Columbia River Basin Restora-
7 tion Program.

8 “(B) EFFECT.—

9 “(i) The establishment of the Pro-
10 gram does not modify any legal or regu-
11 latory authority or program in effect as of
12 the date of enactment of this section, in-
13 cluding the roles of Federal agencies in the
14 Columbia River Basin.

15 “(ii) This section does not create any
16 new regulatory authority.

17 “(2) SCOPE OF PROGRAM.—The Program shall
18 consist of a collaborative stakeholder-based program
19 for environmental protection and restoration activi-
20 ties throughout the Columbia River Basin.

21 “(3) DUTIES.—The Administrator shall—

22 “(A) assess trends in water quality, includ-
23 ing trends that affect uses of the water of the
24 Columbia River Basin;

1 “(B) collect, characterize, and assess data
2 on water quality to identify possible causes of
3 environmental problems; and

4 “(C) provide grants in accordance with
5 subsection (d) for projects that assist in—

6 “(i) eliminating or reducing pollution;

7 “(ii) cleaning up contaminated sites;

8 “(iii) improving water quality;

9 “(iv) monitoring to evaluate trends;

10 “(v) reducing runoff;

11 “(vi) protecting habitat; or

12 “(vii) promoting citizen engagement
13 or knowledge.

14 “(c) STAKEHOLDER WORKING GROUP.—

15 “(1) ESTABLISHMENT.—The Administrator
16 shall establish a Columbia River Basin Restoration
17 Working Group (referred to in this subsection as the
18 ‘Working Group’).

19 “(2) MEMBERSHIP.—

20 “(A) IN GENERAL.—Membership in the
21 Working Group shall be on a voluntary basis
22 and any person invited by the Administrator
23 under this subsection may decline membership.

1 “(B) INVITED REPRESENTATIVES.—The
2 Administrator shall invite, at a minimum, rep-
3 resentatives of—

4 “(i) each State located in whole or in
5 part in the Columbia River Basin;

6 “(ii) the Governors of each State lo-
7 cated in whole or in part in the Columbia
8 River Basin;

9 “(iii) each federally recognized Indian
10 tribe in the Columbia River Basin;

11 “(iv) local governments in the Colum-
12 bia River Basin;

13 “(v) industries operating in the Co-
14 lumbia River Basin that affect or could af-
15 fect water quality;

16 “(vi) electric, water, and wastewater
17 utilities operating in the Columba River
18 Basin;

19 “(vii) private landowners in the Co-
20 lumbia River Basin;

21 “(viii) soil and water conservation dis-
22 tricts in the Columbia River Basin;

23 “(ix) nongovernmental organizations
24 that have a presence in the Columbia River
25 Basin;

1 “(x) the general public in the Colum-
2 bia River Basin; and

3 “(xi) the Estuary Partnership.

4 “(3) GEOGRAPHIC REPRESENTATION.—The
5 Working Group shall include representatives from—

6 “(A) each State located in whole or in part
7 in the Columbia River Basin; and

8 “(B) each of the lower, middle, and upper
9 basins of the Columbia River.

10 “(4) DUTIES AND RESPONSIBILITIES.—The
11 Working Group shall—

12 “(A) recommend and prioritize projects
13 and actions; and

14 “(B) review the progress and effectiveness
15 of projects and actions implemented.

16 “(5) LOWER COLUMBIA RIVER ESTUARY.—

17 “(A) ESTUARY PARTNERSHIP.—The Estu-
18 ary Partnership shall perform the duties and
19 fulfill the responsibilities of the Working Group
20 described in paragraph (4) as those duties and
21 responsibilities relate to the Lower Columbia
22 River Estuary for such time as the Estuary
23 Partnership is the management conference for
24 the Lower Columbia River National Estuary
25 Program under section 320.

1 “(B) DESIGNATION.—If the Estuary Part-
2 nership ceases to be the management con-
3 ference for the Lower Columbia River National
4 Estuary Program under section 320, the Ad-
5 ministrator may designate the new management
6 conference to assume the duties and responsibil-
7 ities of the Working Group described in para-
8 graph (4) as those duties and responsibilities
9 relate to the Lower Columbia River Estuary.

10 “(C) INCORPORATION.—If the Estuary
11 Partnership is removed from the National Estu-
12 ary Program, the duties and responsibilities for
13 the lower 146 miles of the Columbia River pur-
14 suant to this section shall be incorporated into
15 the duties of the Working Group.

16 “(d) GRANTS.—

17 “(1) IN GENERAL.—The Administrator shall es-
18 tablish a voluntary, competitive Columbia River
19 Basin program to provide grants to State govern-
20 ments, tribal governments, regional water pollution
21 control agencies and entities, local government enti-
22 ties, nongovernmental entities, or soil and water con-
23 servation districts to develop or implement projects
24 authorized under this section for the purpose of en-

1 vironmental protection and restoration activities
2 throughout the Columbia River Basin.

3 “(2) FEDERAL SHARE.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Federal share of the cost
6 of any project or activity carried out using
7 funds from a grant provided to any person (in-
8 cluding a State, tribal, or local government or
9 interstate or regional agency) under this sub-
10 section for a fiscal year—

11 “(i) shall not exceed 75 percent of the
12 total cost of the project or activity; and

13 “(ii) shall be made on condition that
14 the non-Federal share of such total cost
15 shall be provided from non-Federal
16 sources.

17 “(B) EXCEPTIONS.—With respect to cost-
18 sharing for a grant provided under this sub-
19 section—

20 “(i) a tribal government may use Fed-
21 eral funds for the non-Federal share; and

22 “(ii) the Administrator may increase
23 the Federal share under such cir-
24 cumstances as the Administrator deter-
25 mines to be appropriate.

1 “(3) ALLOCATION.—In making grants using
2 funds appropriated to carry out this section, the Ad-
3 ministrator shall—

4 “(A) provide not less than 25 percent of
5 the funds to make grants for projects, pro-
6 grams, and studies in the Lower Columbia
7 River Estuary;

8 “(B) provide not less than 25 percent of
9 the funds to make grants for projects, pro-
10 grams, and studies in the Middle and Upper
11 Columbia River Basin, including the Snake
12 River Basin; and

13 “(C) retain not more than 5 percent of the
14 funds for the Environmental Protection Agency
15 for purposes of implementing this section.

16 “(4) REPORTING.—

17 “(A) IN GENERAL.—Each grant recipient
18 under this subsection shall submit to the Ad-
19 ministrator reports on progress being made in
20 achieving the purposes of this section.

21 “(B) REQUIREMENTS.—The Administrator
22 shall establish requirements and timelines for
23 recipients of grants under this subsection to re-
24 port on progress made in achieving the pur-
25 poses of this section.

1 “(5) RELATIONSHIP TO OTHER FUNDING.—

2 “(A) IN GENERAL.—Nothing in this sub-
3 section limits the eligibility of the Estuary Part-
4 nership to receive funding under section 320(g).

5 “(B) LIMITATION.—None of the funds
6 made available under this subsection may be
7 used for the administration of a management
8 conference under section 320.

9 “(e) ANNUAL BUDGET PLAN.—The President, as
10 part of the annual budget submission of the President to
11 Congress under section 1105(a) of title 31, United States
12 Code, shall submit information regarding each Federal
13 agency involved in protection and restoration of the Co-
14 lumbia River Basin, including an interagency crosscut
15 budget that displays for each Federal agency—

16 “(1) the amounts obligated for the preceding
17 fiscal year for protection and restoration projects,
18 programs, and studies relating to the Columbia
19 River Basin;

20 “(2) the estimated budget for the current fiscal
21 year for protection and restoration projects, pro-
22 grams, and studies relating to the Columbia River
23 Basin; and

1 “(3) the proposed budget for protection and
2 restoration projects, programs, and studies relating
3 to the Columbia River Basin.”.

4 **SEC. 5011. REGULATION OF ABOVEGROUND STORAGE AT**
5 **FARMS.**

6 Section 1049(c) of the Water Resources Reform and
7 Development Act of 2014 (33 U.S.C. 1361 note; Public
8 Law 113–121) is amended—

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

12 (2) by striking the subsection designation and
13 heading and all that follows through “subsection
14 (b),” and inserting the following:

15 “(c) **REGULATION OF ABOVEGROUND STORAGE AT**
16 **FARMS.—**

17 “(1) **CALCULATION OF AGGREGATE ABOVE-**
18 **GROUND STORAGE CAPACITY.—**For purposes of sub-
19 section (b),”; and

20 (3) by adding at the end the following:

21 “(2) **CERTAIN FARM CONTAINERS.—**Part 112
22 of title 40, Code of Federal Regulations (or suc-
23 cessor regulations), shall not apply to the following
24 containers located at a farm:

1 “(A) Containers on a separate parcel that
2 have—

3 “(i) an individual capacity of not
4 greater than 1,000 gallons; and

5 “(ii) an aggregate capacity of not
6 greater than 2,500 gallons.

7 “(B) A container holding animal feed in-
8 gredients approved for use in livestock feed by
9 the Food and Drug Administration.”.

10 **SEC. 5012. IRRIGATION DISTRICTS.**

11 Section 603(i)(1) of the Federal Water Pollution
12 Control Act (33 U.S.C. 1383) is amended—

13 (1) in the matter preceding subparagraph (A)
14 by striking “to a municipality or intermunicipal,
15 interstate, or State agency” and inserting “to an eli-
16 gible recipient”; and

17 (2) in subparagraph (A), in the matter pre-
18 ceding clause (i), by inserting “in assistance to a
19 municipality or intermunicipal, interstate, or State
20 agency” before “to benefit”.

21 **SEC. 5013. ESTUARY RESTORATION.**

22 (a) PARTICIPATION OF NON-FEDERAL INTERESTS.—
23 Section 104(f) of the Estuary Restoration Act of 2000 (33
24 U.S.C. 2903(f)) is amended by adding at the end the fol-
25 lowing:

1 “(3) PROJECT AGREEMENTS.—For a project
2 carried out under this title, the requirements of sec-
3 tion 103(j)(1) of the Water Resources Development
4 Act of 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled
5 by a nongovernmental organization serving as the
6 non-Federal interest for the project pursuant to
7 paragraph (2).”.

8 (b) EXTENSION.—Section 109(a) of the Estuary Res-
9 toration Act of 2000 (33 U.S.C. 2908(a)) is amended by
10 striking “2012” each place it appears and inserting
11 “2021”.

12 **SEC. 5014. ENVIRONMENTAL BANKS.**

13 The Coastal Wetlands Planning, Protection and Res-
14 toration Act (Public Law 101–646; 16 U.S.C. 3951 et
15 seq.) is amended by adding at the end the following:

16 **“SEC. 309. ENVIRONMENTAL BANKS.**

17 “(a) GUIDELINES.—Not later than 1 year after the
18 date of enactment of the Water Resources Development
19 Act of 2016, the Task Force shall, after public notice and
20 opportunity for comment, issue guidelines for the use,
21 maintenance, and oversight of environmental banks in
22 Louisiana.

23 “(b) REQUIREMENTS.—The guidelines issued pursu-
24 ant to subsection (a) shall—

1 “(1) set forth procedures for establishment and
2 approval of environmental banks subject to the ap-
3 proval of the heads of the appropriate Federal agen-
4 cies responsible for implementation of Federal envi-
5 ronmental laws for which mitigation credits may be
6 used;

7 “(2) establish criteria for siting of environ-
8 mental banks that enhance the resilience of coastal
9 resources to inundation and coastal erosion in high
10 priority areas, as identified within Federal or State
11 restoration plans, including the restoration of re-
12 sources within the scope of a project authorized for
13 construction;

14 “(3) establish criteria that ensure environ-
15 mental banks secure adequate financial assurances
16 and legally enforceable protection for the land or re-
17 sources that generate the credits from environmental
18 banks;

19 “(4) stipulate that credits from environmental
20 banks may not be used for mitigation of impacts re-
21 quired under section 404 of the Federal Water Pol-
22 lution Control Act (33 U.S.C. 1342) or the Endan-
23 gered Species Act (16 U.S.C. 1531 et seq.) in an
24 area where an existing mitigation bank approved
25 pursuant to such laws within 5 years of enactment

1 of the Water Resources Development Act of 2016
2 has credits available;

3 “(5) establish performance criteria for environ-
4 mental banks; and

5 “(6) establish criteria and financial assurance
6 for the operation and monitoring of environmental
7 banks.

8 “(c) ENVIRONMENTAL BANK.—

9 “(1) DEFINITION OF ENVIRONMENTAL BANK.—

10 In this section, the term ‘environmental bank’ means
11 a project, project increment, or projects for purposes
12 of restoring, creating, or enhancing natural re-
13 sources at a designated site to establish mitigation
14 credits.

15 “(2) CREDITS.—Mitigation credits created from
16 environmental banks approved pursuant to this sec-
17 tion may be used to satisfy existing liability under
18 Federal environmental laws.

19 “(d) SAVINGS CLAUSE.—

20 “(1) APPLICATION OF FEDERAL LAW.—Guide-
21 lines developed under this section and mitigation
22 carried out through an environmental bank estab-
23 lished pursuant to such guidelines shall comply with
24 all applicable requirements of Federal law (including
25 regulations), including—

1 “(A) the Federal Water Pollution Control
2 Act (33 U.S.C. 1251 et seq.);

3 “(B) the Endangered Species Act (16
4 U.S.C. 1531 et seq.);

5 “(C) the Oil Pollution Act of 1990 (33
6 U.S.C. 2701 et seq.);

7 “(D) the National Environmental Policy
8 Act of 1969 (42 U.S.C. 4321 et seq.); and

9 “(E) section 906 of the Water Resources
10 Development Act of 1986 (33 U.S.C. 2283).

11 “(2) STATUTORY CONSTRUCTION.—Nothing in
12 this section may be construed to affect—

13 “(A) any authority, regulatory determina-
14 tion, or legal obligation in effect the day before
15 the date of enactment of the Water Resources
16 Development Act of 2016; or

17 “(B) the obligations or requirements of
18 any Federal environmental law.

19 “(e) SUNSET.—No new environmental bank may be
20 created or approved pursuant to this section after the date
21 that is 10 years after the date of enactment of this sec-
22 tion.”.

