BUREAU OF
RECLAMATION

# *RECLAMATION AND RELATED LAWS*

## *1999 - 2010*

**Editor: Kevin M. Sabo, Esq.**

**Bureau of Reclamation**
**United States Department of the Interior**

# *FOREWARD*

The U.S. Bureau of Reclamation's "*Blue Books*" have a new look!

The Bureau of Reclamation has hundreds of individually enacted statutes and pieces of other legislation affecting its projects and programs. In the past, this reference material has been collected in the form of traditional hard bound books titled *Federal Reclamation and Related Laws Annotated* referred to simply as the "blue books." For decades these have been the definitive compilation of relevant laws, but this format stopped at 1998.

Beginning with this edition, covering the years of 1999 to 2010, Reclamation will still provide this useful research tool, but online in the form of a pdf document. By publishing online, we can include not only useful links to the United States Code and previously enacted public laws, but complete legislative histories, where available, including committee reports, hearing testimony, and floor debates.

With the goal of making this updated collection as comprehensive as possible, we have included federal laws affecting western water law regardless of the agency charged with its implementation. Therefore, you will see statutes naming such agencies as the U.S. Army Corps of Engineers, Interior's Bureau of Indian Affairs, the Federal Energy Regulatory Commission, and the various federal power marketing agencies. Reflecting Congress' increased attention to the water needs of Hawaii and Alaska, we have also included water laws affecting these States.

This is a living document and will be updated we become aware of additional relevant research tools. Please remember that the information provided does not constitute legal advice. All information, content, and materials are for general informational purposes only and should not be considered "official." Further, while we will do our best to update this information regularly, it may not represent the most up-to-date sources. Links to other government and/or third-party websites are only for the convenience of the user; and we do not endorse the content of these sites. This content is provided "as is;" no representations are made that the content is error-free. Visitors should contact their attorney to obtain advice with respect to any legal matter.

Kevin M. Sabo, Esq.
Editor

## Secretaries of the Interior

| Name | Year Appointed | Name | Year Appointed |
|---|---|---|---|
| Thomas Ewing | 1849 | Harold L. Ickes | 1933 |
| Thomas M.T. McKennan | 1850 | Julius A. Krug | 1946 |
| Alexander H.H. Stuart | 1850 | Oscar L. Chapman | 1949 |
| Robert McClelland | 1853 | Douglas McKay | 1953 |
| Jacob Thompson | 1857 | Fred A. Seaton | 1956 |
| Caleb B. Smith | 1861 | Stewart L. Udall | 1961 |
| John P. Usher | 1863 | Walter J. Hickel | 1969 |
| James Harlan | 1865 | Rogers C.B. Morton | 1971 |
| Orville H. Browning | 1866 | Stanley K. Hathaway | 1975 |
| Jacob D. Cox | 1869 | Thomas S. Kleppe | 1975 |
| Columbus Delano | 1870 | Cecil D. Andrus | 1977 |
| Zachariah Chandler | 1875 | James G. Watt | 1981 |
| Carl Schurz | 1877 | William P. Clark | 1983 |
| Samuel J. Kirkwood | 1881 | Donald P. Hodel | 1985 |
| Henry M. Teller | 1882 | Manuel Lujan Jr. | 1989 |
| Lucius Q.C. Lamar II | 1885 | Bruce E. Babbitt | 1993 |
| William F. Vilas | 1888 | Gale Norton | 2001 |
| John W. Noble | 1889 | Dirk Kempthorne | 2006 |
| Hoke Smith | 1893 | Ken Salazar | 2009 |
| David R. Francis | 1896 | | |
| Cornelius N. Bliss | 1897 | | |
| Ethan A. Hitchcock | 1899 | | |
| James R. Garfield | 1907 | | |
| Richard A. Ballinger | 1909 | | |
| Walter L. Fisher | 1911 | | |
| Franklin K. Lane | 1913 | | |
| John B. Payne | 1920 | | |
| Albert B. Fall | 1921 | | |
| Hubert Work | 1923 | | |
| Roy O. West | 1928 | | |
| Ray Lyman Wilbur | 1929 | | |

## Commissioners of Reclamation

| Name | Year Appointed | Name | Year Appointed |
|---|---|---|---|
| Charles D. Walcott (Dir., USGS) | 1894 | Gilbert G. Stamm | 1973 |
| Frederick H. Newell, Chief Engineer | 1902 | R. Keith Higginson | 1977 |
| Frederick H. Newell, Director | 1907 | Robert N. Broadbent | 1981 |
| Arthur Powell Davis, Director | 1914 | C. Dale Duvall | 1985 |
| David W. Davis, Director | 1923 | Dennis B. Underwood | 1989 |
| Elwood Mead | 1924 | Daniel Beard | 1993 |
| Mae A. Schnurr | 1930 | Eluid L. Martinez | 1995 |
| John C. Page | 1936 | John W. Keys III | 2001 |
| Harry W. Bashore | 1943 | Robert W. Johnson | 2006 |
| Michael W. Straus | 1945 | Michael L. Connor | 2009 |
| Wilbur A. Dexheimer | 1953 | | |
| Floyd E. Dominy | 1959 | | |
| Ellis L. Armstrong | 1969 | | |

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**2010**

None

August 17, 1999

# WATER RESOURCES DEVELOPMENT ACT OF 1999

**[Extracts from]** An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. (Act of August 17, 1999, Public Law 106-53, 113 Stat. 269)

* * * * *

**[Section 2. Definition of Secretary.]--** In this Act, the term "Secretary" means the Secretary of the Army.

**TITLE I—Water Resources Projects**

**Sec. 101. [Project Authorizations.]--**

**(a) Projects With Chief's Reports**.--The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this subsection:

* * * * *

**(4) Rio Salado (Salt River), Phoenix and Tempe, Arizona**.-- The project for flood control and environmental restoration, Rio Salado (Salt River), Phoenix and Tempe, Arizona: Report of the Chief of Engineers dated August 20, 1998, at a total cost of $88,048,000, with an estimated Federal cost of $56,355,000 and an estimated non-Federal cost of $31,693,000.

**(5) Tucson Drainage Area, Arizona**.-- The project for flood damage reduction, environmental restoration, and recreation, Tucson drainage area, Arizona: Report of the Chief of Engineers dated May 20, 1998, at a total cost of $29,900,000, with an estimated Federal cost of $16,768,000 and an estimated non-Federal cost of $13,132,000.

**(6) American and Sacramento rivers, California.--** (A) In general.--The Folsom Dam Modification portion of the Folsom Modification Plan described in the United States Army Corps of Engineers Supplemental Information Report for the American River Watershed Project, California, dated March 1996, as modified by the report entitled "Folsom Dam Modification Report, New Outlets Plan", dated March 1998, prepared by the Sacramento Area Flood Control Agency, at an estimated cost of $150,000,000, with an estimated Federal cost of $97,500,000 and an estimated non-Federal cost of $52,500,000. The Secretary shall coordinate with the Secretary of the Interior with respect to the design and construction of modifications at Folsom Dam authorized by this paragraph. (B) Reoperation measures.-- Upon completion of the improvements to Folsom Dam authorized by subparagraph (A), the variable space allocated to flood control within the Reservoir shall be reduced from the current operating range of 400,000-670,000 acre-feet to 400,000-600,000 acre-feet. (C) Makeup of water shortages caused by flood control operation.--The Secretary of the Interior shall enter into, or modify, such agreements with the Sacramento Area Flood Control Agency regarding the operation of Folsom Dam and reservoir as may be necessary in order that, notwithstanding any prior agreement or provision of law, 100 percent of the water needed to make up for any water shortage caused by variable flood control operation during any year at Folsom Dam and resulting in a significant impact on recreation at Folsom Reservoir shall be replaced, to the extent the water is available for purchase, by the Secretary of the Interior. (D) Significant impact on recreation.-- For the purposes of this

paragraph, a significant impact on recreation is defined as any impact that results in a lake elevation at Folsom Reservoir below 435 feet above sea level starting on May 15 and ending on September 15 of any given year. (E) Updated flood management plan.-- The Secretary, in cooperation with the Secretary of the Interior, shall update the flood management plan for Folsom Dam authorized by section 9159(f)(2) of the Department of Defense Appropriations Act, 1993 (106 Stat. 1946), to reflect the operational capabilities created by the modification authorized by subparagraph (A) and improved weather forecasts based on the Advanced Hydrologic Prediction System of the National Weather Service.

**(7) Oakland Harbor, California.--** The project for navigation, Oakland Harbor, California: Report of the Chief of Engineers dated April 21, 1999, at a total cost of $252,290,000, with an estimated Federal cost of $128,081,000 and an estimated non-Federal cost of $124,209,000. (8) South Sacramento County streams, California.—The project for flood control, environmental restoration and recreation, South Sacramento County streams, California: Report of the Chief of Engineers dated October 6, 1998, at a total cost of $65,500,000, with an estimated Federal cost of $41,200,000 and an estimated non-Federal cost of $24,300,000. (9) Upper Guadalupe river, California.--Construction of the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers dated August 19, 1998, at a total cost of $140,328,000, with an estimated Federal cost of $44,000,000 and an estimated non-Federal cost of $96,328,000. (10) Yuba River Basin, California.-- The project for flood damage reduction, Yuba River Basin, California: Report of the Chief of Engineers dated November 25, 1998, at a total cost of $26,600,000, with an estimated Federal cost of $17,350,000 and an estimated non-Federal cost of $9,250,000.

* * * * *

**(30) Salt Creek, Graham, Texas**.-- The project for flood control, environmental restoration, and recreation, Salt Creek, Graham, Texas: Report of the Chief of Engineers dated October 6, 1998, at a total cost of $10,080,000, with an estimated Federal cost of $6,560,000 and an estimated non-Federal cost of $3,520,000.

**(b) Projects Subject to a Final Report**.-- The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed not later than December 31, 1999:

* * * * *

**(2) Arroyo Pasajero, California.**-- The project for flood damage reduction, Arroyo Pasajero, California, at a total cost of $260,700,000, with an estimated Federal cost of $170,100,000 and an estimated non-Federal cost of $90,600,000.

**(3) Hamilton Airfield, California**.-- The project for environmental restoration, Hamilton Airfield, California, at a total cost of $55,200,000, with an estimated Federal cost of $41,400,000 and an estimated non-Federal cost of $13,800,000.

**(4) Success Dam, Tule River Basin, California**.-- The project for flood damage reduction and water supply, Success Dam, Tule River basin, California, at a total cost of $17,900,000, with an estimated Federal cost of $11,635,000 and an estimated non-Federal cost of $6,265,000.

* * * * *

**(13) Columbia River Channel, Oregon and Washington**.-- The project for navigation, Columbia River Channel, Oregon and Washington, at a total cost of $183,623,000, with an estimated Federal cost of $106,132,000 and an estimated non-Federal cost of $77,491,000.

**(14) Johnson Creek, Arlington, Texas**.-- The project for flood damage reduction, environmental restoration, and recreation, Johnson Creek, Arlington, Texas, at a total cost of $20,300,000, with an estimated Federal cost of $12,000,000 and an estimated non-Federal cost of $8,300,000.

**(15) Howard Hanson Dam, Washington**.-- The project for water supply and ecosystem restoration, Howard Hanson Dam, Washington, at a total cost of $75,600,000, with an estimated Federal cost of $36,900,000 and an estimated non-Federal cost of $38,700,000.

**Sec. 102. [Small Flood Control Projects.]--** (a) In General.-- The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

* * * * *

**(3) Lancaster, California**.-- Project for flood control, Lancaster, California, westside stormwater retention facility.

**(4) Magpie Creek, California.**-- Project for flood control, Magpie Creek, California, located within the boundaries of McClellan Air Force Base.

* * * * *

**Sec. 103. [Small Bank Stabilization Projects.]--**

* * * * *

**(b) Yellowstone River, Billings, Montana**.-- The streambank protection project at Coulson Park, along the Yellowstone River, Billings, Montana, shall be eligible for assistance under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

**Sec. 104. [Small Navigation Projects.]--** The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

* * * * *

**(2) Fields Landing Channel, Humboldt Harbor, California.**-- Project for navigation, Fields Landing Channel, Humboldt Harbor, California.

* * * * *

**Sec. 105. [Small Projects for Improvement of the Quality of the Environment.]--**
(a) In General.-- The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a):

* * * * *

**(b) Pine Flat Dam, Kings River, California**.--Under authority of section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)), the Secretary shall carry out a project to construct a turbine bypass at Pine Flat Dam, Kings River, California, in accordance with the project modification report and environmental assessment dated September 1996.

**Sec. 106. [Small Aquatic Ecosystem Restoration Projects.]--** The Secretary is authorized to carry out the following projects under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330): (1) Contra Costa County, Bay Delta, California.-- Project for aquatic ecosystem restoration, Contra Costa County, Bay Delta, California.

* * * * *

**(13) Springfield Millrace, Oregon**.-- Project for aquatic ecosystem restoration, Springfield Millrace, Oregon. (14) Upper Amazon Creek, Oregon.-- Project for aquatic ecosystem restoration, Upper Amazon Creek, Oregon.

* * * * *

**TITLE II--GENERAL PROVISIONS**

**Sec. 201. [Small Flood Control Authority.]--** Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended--

(1) in the first sentence, by striking "construction of small projects" and inserting "implementation of small structural and nonstructural projects"; and

(2) in the third sentence, by striking "$5,000,000" and inserting "$7,000,000".

**Sec. 202. [Use of Non-Federal Funds for Compiling and Disseminating Information on Floods and Flood Damage.]--** Section 206(b) of the Flood Control Act of 1960 (33 U.S.C. 709a(b)) is amended in the third sentence by inserting before the period at the end the following: ", but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities".

**Sec. 203. Contributions by States and Political Subdivisions.]--** Section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), is amended by inserting "or environmental restoration" after "flood control".

**Sec. 204. [Sediment Decontamination Technology.]--** Section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; Public Law 102-580) is amended--

(1) in subsection (a), by adding at the end the following: "(4) Practical end-use products.-- Technologies selected for demonstration at the pilot scale shall be intended to result in practical end-use products. (5) Assistance by the secretary.-- The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity.;

(2) in subsection (c), by striking the first sentence and inserting the following: "There is authorized to be appropriated to carry out this section $22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York/New Jersey Harbor."; and

(3) by adding at the end the following: "(e) Support.--In carrying out the program under this section, the Secretary is encouraged to use contracts, cooperative agreements, and grants with colleges and universities and other non-Federal entities.".

**Sec. 205. [Control of Aquatic Plants.]--** Section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610) is amended--

(1) in the first sentence of subsection (a), by striking "water-hyacinth, alligatorweed, Eurasian water milfoil, melaleuca, and other obnoxious aquatic plant growths, from" and inserting "noxious aquatic plant growths from";

(2) in the first sentence of subsection (b), by striking "$12,000,000" and inserting "$15,000,000"; and

(3) by adding at the end the following: "(c) Support.--In carrying out the program under this section, the Secretary is encouraged to use contracts, cooperative agreements, and grants with colleges and universities and other non-Federal entities.".

* * * * *

**Sec. 209. [Beneficial Uses of Dredged Material]--** Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended--

(1) in subsection (c), by striking “cooperative agreement in accordance with the requirements of section 221 of the Flood Control Act of 1970" and inserting ``binding agreement with the Secretary"; and
(2) by adding at the end the following: “(g) Nonprofit Entities.-- Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".
**Sec. 210. [Aquatic Ecosystem Restoration.]--** Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) is amended--
(1) in subsection (b)-- (A) by striking ``Non-Federal" and inserting the following: “(1) In general.--Non-Federal"; and (B) by adding at the end the following: “(2) Form.-- Before October 1, 2003, the Federal share of the cost of a project under this section may be provided in the form of reimbursements of project costs."; and
(2) in subsection (c)-- (A) by striking “Construction" and inserting the following: “(1) In general.--Construction"; and (B) by adding at the end the following: “(2) Nonprofit entities.-- Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".
**Sec. 211. [Watershed Management, Restoration, and Development]--** Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended--
(1) in subsection (d)--

* * * * *

(B) by adding at the end the following:

“(14) **Clear Lake Watershed, California**.
“(15) **Fresno Slough Watershed, California.**
“(16) **Hayward Marsh, Southern San Francisco Bay Watershed, California.**
“(17) **Kaweah River Watershed, California**.
“(18) **Lake Tahoe Watershed, California and Nevada.**
“(19) **Malibu Creek Watershed, California.**

* * * * *

“(22) **Truckee River Basin, Nevada**. “(23) Walker River Basin, Nevada.

* * * * *

“(26) **Columbia Slough Watershed, Oregon**.

* * * * *

(2) by redesignating subsection (e) as subsection (f); and (3) by inserting after subsection (d) the following: “(e) Nonprofit Entities.--Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.".
**Sec. 212. [Flood Mitigation and Riverine Restoration Program.]--**
(a) In General.-- The Secretary may undertake a program for the purpose of conducting projects to reduce flood hazards and restore the natural functions and values of rivers throughout the United States.
(b) Studies and Projects.—
(1) Authority.--In carrying out the program, the Secretary may conduct studies to identify appropriate flood damage reduction, conservation, and restoration measures and may design and implement projects described in subsection (a).

(2) Consultation and coordination.-- The studies and projects carried out under this section shall be conducted, to the maximum extent practicable, in consultation and coordination with the Federal Emergency Management Agency and other appropriate Federal agencies, and in consultation and coordination with appropriate State and local agencies and tribes.

(3) Nonstructural approaches.-- The studies and projects shall emphasize, to the maximum extent practicable and appropriate, nonstructural approaches to preventing or reducing flood damages.

(4) Participation.--The studies and projects shall be conducted, to the maximum extent practicable, in cooperation with State and local agencies and tribes to ensure the coordination of local flood damage reduction or riverine and wetland restoration studies with projects that conserve, restore, and manage hydrologic and hydraulic regimes and restore the natural functions and values of floodplains.

(c) Cost-Sharing Requirements.--

(1) Studies.--Studies conducted under this section shall be subject to cost sharing in accordance with section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215).

(2) Environmental restoration and nonstructural flood control projects.—

(A) In general.--The Non-Federal interests shall pay 35 percent of the cost of any environmental restoration or nonstructural flood control project carried out under this section.

(B) Items provided by non-federal interests.-- The Non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for such projects.

(C) Credit.-- The value of such land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this paragraph.

(3) Structural flood control projects.-- Any structural flood control projects carried out under this section shall be subject to cost sharing in accordance with section 103(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a)).

(4) Operation and maintenance.-- The Non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(d) Project Justification.--

(1) In general.-- Notwithstanding any other provision of law or requirement for economic justification established under section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962-2), the Secretary may implement a project under this section if the Secretary determines that the project--

(A) will significantly reduce potential flood damages;

(B) will improve the quality of the environment; and

(C) is justified considering all costs and beneficial outputs of the project.

(2) Establishment of selection and rating criteria and policies.--

(A) In general.--Not later than 180 days after the date of enactment of this Act, the Secretary, in cooperation with State and local agencies and tribes, shall-- (i) develop, and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, criteria for selecting and rating projects to be carried out under this

section; and (ii) establish policies and procedures for carrying out the studies and projects undertaken under this section.

(B) Criteria.--The criteria referred to in subparagraph (A)(i) shall include, as a priority, the extent to which the appropriate State government supports the project.

(e) Priority Areas.--In carrying out this section, the Secretary shall examine appropriate locations, including--

(1) **Pima County, Arizona, at Paseo De Las Iglesias and Rillito** River;

(2) **Coachella Valley, Riverside County, California;**

(3) **Los Angeles and San Gabriel Rivers, California;**

(4) **Murrieta Creek, California**;

(5) **Napa River Valley watershed, California, at Yountville, St. Helena, Calistoga, and American Canyon**;

(6) **Santa Clara basin, California, at Upper Guadalupe River and Tributaries, San Francisquito Creek, and Upper Penitencia Creek**;

* * * * *

(8) **Red River of the North, Minnesota, North Dakota, and South Dakota**;

* * * * *

(11) **Southwest Valley, Albuquerque, New Mexico**;

* * * * *

(16) **Tillamook County, Oregon**;

(17) **Willamette River basin, Oregon**;

* * * * *

(f) Program Review.--

(1) In general.--The program established under this section shall be subject to an independent review to evaluate the efficacy of the program in achieving the dual goals of flood hazard mitigation and riverine restoration.

(2) Report.-- Not later than April 15, 2003, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the findings of the review conducted under this subsection with any recommendations concerning continuation of the program.

(g) Maximum Federal Cost per Project.-- Not more than $30,000,000 may be expended by the United States on any single project under this section.

(h) Procedure.--

(1) All projects.--The Secretary shall not implement any project under this section until-

(A) the Secretary submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notification describing the project and the determinations made under subsection (d)(1); and

(B) 21 calendar days have elapsed after the date on which the notification was received by the committees.

(2) Projects exceeding $15,000,000.—

(A) Limitation on appropriations.--No appropriation shall be made to construct any project under this section the total Federal cost of construction of which exceeds $15,000,000 if the project has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(B) Report.-- For the purpose of securing consideration of approval under this paragraph, the Secretary shall submit a report on the proposed project, including all relevant data and information on all costs.

(i) Authorization of Appropriations.--

(1) In general.--There are authorized to be appropriated to carry out this section-

(A) $20,000,000 for fiscal year 2001;

(B) $30,000,000 for fiscal year 2002; and (C) $50,000,000 for each of fiscal years 2003 through 2005.

(2) Full funding.-- All studies and projects carried out under this section from Army Civil Works appropriations shall be fully funded within the program funding levels.

* * * * *

**Sec. 216. [Flood Prevention Coordination.]**-- Section 206 of the Flood Control Act of 1960 (33 U.S.C. 709a) is amended--

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following: "(b) Flood Prevention Coordination.-- The Secretary shall coordinate with the Director of the Federal Emergency Management Agency and the heads of other Federal agencies to ensure that flood control projects and plans are complementary and integrated to the extent practicable and appropriate.".

* * * * *

**Sec. 218. [Annual Passes for Recreation.]**-- Section 208(c)(4) of the Water Resources Development Act of 1996 (16 U.S.C. 460d-3 note; 110 Stat. 3681) is amended by striking "later of December 31, 1999, or the date of transmittal of the report under paragraph (3)" and inserting "December 31, 2003".

**Sec. 219. [Nonstructural Flood Control Projects.]**

(a) Analysis of Benefits.-- Section 308 of the Water Resources Development Act of 1990 (33 U.S.C. 2318) is amended--

(1) in the heading of subsection (a), by inserting "Exclusion of Elements From" before "Benefit-Cost";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; (3) by inserting after subsection (a) the following:

"(b) Flood Damage Reduction Benefits.--

"(1) In general.--In calculating the benefits of a proposed project for nonstructural flood damage reduction, the Secretary shall calculate the benefits of the nonstructural project using methods similar to those used for calculating the benefits of structural projects, including similar treatment in calculating the benefits from losses avoided.

"(2) Avoidance of double counting.-- In carrying out paragraph (1), the Secretary should avoid double counting of benefits."; and (4) in subsection (d), by striking "subsection (b)" and inserting "subsection (c)".

(b) Reevaluation of Flood Control Projects.-- At the request of a non-Federal interest for a flood control project, the Secretary shall conduct a reevaluation of a project authorized before the date of enactment of this Act to consider nonstructural alternatives in light of the amendments made by subsection (a).

(c) Cost Sharing.-- Section 103(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(b)) is amended--

(1) by striking “The Non-Federal" and inserting the following: “(1) In general.--The Non-Federal"; and

(2) by adding at the end the following: “(2) Non-federal contribution in excess of 35 percent.--At any time during construction of a project, if the Secretary determines that the costs of land, easements, rights-of-way, dredged material disposal areas, and relocations for the project, in combination with other costs contributed by the non-Federal interests, will exceed 35 percent, any additional costs for the project (not to exceed 65 percent of the total costs of the project) shall be a Federal responsibility and shall be contributed during construction as part of the Federal share.".

* * * * *

**Sec. 221. [Enhancement of Fish and Wildlife Resources.]**-- Section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)) is amended by inserting after the second sentence the following: “Not more than 80 percent of the non-Federal share of such first costs may be satisfied through in-kind contributions, including facilities, supplies, and services that are necessary to carry out the enhancement project.".

*** * * * ***

**Sec. 223. [Construction of Flood Control Projects by Non-Federal Interests.]--**

(a) In General.--Section 211(d) of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13(d)) is amended--

(1) in paragraph (1), by striking “Any Non-Federal interest that has received from the Secretary pursuant to subsection (b) or (c)" and inserting the following:

“(A) Studies and design activities under subsection (b).—

“(i) In general.--A Non-Federal interest may carry out construction for which studies and design documents are prepared under subsection (b) only if the Secretary approves the project for construction.

“(ii) Criteria for approval.-- The Secretary shall approve a project for construction if the Secretary determines that the project is technically sound, economically justified, and environmentally acceptable and meets the requirements for obtaining the appropriate permits required under the authority of the Secretary.

“(iii) No unreasonable withholding of approval.-- The Secretary shall not unreasonably withhold approval of a project for construction.

“(iv) No effect on regulatory authority.-- Nothing in this subparagraph affects any regulatory authority of the Secretary.

“(B) Studies and design activities under subsection (c).--Any non-Federal interest that has received from the Secretary under subsection (c)"; and

(2) in the first sentence of paragraph (2), by inserting “(other than paragraph (1)(A))" after “this subsection".

(b) Reimbursement.--

(1) In general.--Section 211(e)(1) of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13(e)(1)) is amended--

(A) in the matter preceding subparagraph (A), by inserting after “constructed pursuant to this section" the following: “and provide credit for the non-Federal share of the project";

(B) in subparagraph (A), by striking “and" at the end

(C) in subparagraph (B), by striking the period at the end and inserting “; and"; and

(D) by adding at the end the following: “(C) if the construction work is substantially in accordance with plans prepared under subsection (b).".

(2) Special rules.-- Section 211(e)(2)(A) of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13(e)(2)(A)) is amended--

(A) in the subparagraph heading, by inserting “or credit" after “Reimbursement": (B) by striking “subject to amounts being made available in advance in appropriations Acts" and inserting “subject to the availability of appropriations"; and

(C) by inserting after “the cost of such work" the following: “or provide credit (depending on the request of the non-Federal interest) for the non-Federal share of such work,".

(3) Schedule and manner of reimbursements.-- Section 211(e) of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13(e)) is amended by adding at the end the following:

“(6) Schedule and manner of reimbursement.—

“(A) Budgeting.--The Secretary shall budget and request appropriations for reimbursements under this section on a schedule that is consistent with a Federal construction schedule.

“(B) Commencement of reimbursements.-- Reimbursements under this section may commence on approval of a project by the Secretary.

“(C) Credit.-- At the request of a non-Federal interest, the Secretary may reimburse the non-Federal interest by providing credit toward future non-Federal costs of the project.

“(D) Scheduling.-- Nothing in this paragraph affects the discretion of the President to schedule new construction starts.".

**Sec. 224. [Environmental Dredging.]--** Section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1272) is amended--

(1) in subsection (b)-- (A) in paragraph (1), by striking “50" and inserting “35"; and (B) in paragraph (2), by striking “$20,000,000" and inserting “$50,000,000";

(2) in subsection (d), by striking “non-Federal responsibility" and inserting “shared as a cost of construction"; and

(3) in subsection (f), by adding at the end the following:

“(6) Passaic River and Newark Bay, New Jersey.

“(7) **Snake Creek, Bixby, Oklahoma**.

“(8) **Willamette River, Oregon.**".

**Sec. 225. [Recreation User Fees.]--**

(a) Withholding of Amounts.--

(1) In general.-- During fiscal years 1999 through 2002, the Secretary may withhold from the special account established under section 4(i)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)(1)(A)) 100 percent of the amount of receipts above a baseline of $34,000,000 per each fiscal year received from fees imposed at recreation sites under the administrative jurisdiction of the Department of the Army under section 4(b) of that Act (16 U.S.C. 460l-6a(b)).

(2) Use.-- The amounts withheld shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary in accordance with subsection (b).

(3) Availability.-- The amounts withheld shall remain available until September 30, 2005.

(b) Use of Amounts Withheld.--In order to increase the quality of the visitor experience at public recreational areas and to enhance the protection of resources, the amounts withheld under subsection (a) may be used only for--

(1) repair and maintenance projects (including projects relating to health and safety);
(2) interpretation;
(3) signage;
(4) habitat or facility enhancement;
(5) resource preservation;
(6) annual operation (including fee collection);
(7) maintenance; and
(8) law enforcement related to public use.

(c) Availability.-- Each amount withheld by the Secretary shall be available for expenditure, without further Act of appropriation, at the specific project from which the amount, above baseline, is collected.

**Sec. 226. [Small Storm Damage Reduction Projects.]--** Section 3 of the Act of August 13, 1946 (33 U.S.C. 426(g), is amended by striking "$2,000,000" and inserting "$3,000,000".

**Sec. 227. [Use of Private Enterprises.]--**

(a) In General.-- The Secretary shall comply with the requirements of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note; Public Law 105-270).

(b) Compliance with Other Law.--

(1) Inventory and review.--In carrying out this section, the Secretary shall inventory and review all activities that are not inherently governmental in nature in accordance with the Federal Activities Inventory Reform Act of 1998.

(2) Architectural and engineering services.-- Any review and conversion by the Secretary to performance by private enterprise of an architectural or engineering service (including a surveying or mapping service) shall be carried out in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

**TITLE III--PROJECT-RELATED PROVISIONS**

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**Sec. 305. [Sacramento River, Glenn-Colusa, California.]--** (a) In General.-- The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled "An Act to provide for the control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes", approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), section 301(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3110), and title I of the Energy and Water Development Appropriations Act, 1999 (112 Stat. 1841), is further modified to authorize the Secretary—

(1) to carry out the portion of the project at Glenn-Colusa, California, at a total cost of $26,000,000, with an estimated Federal cost of $20,000,000 and an estimated non-Federal cost of $6,000,000; and

(2) to carry out bank stabilization work in the riverbed gradient facility, particularly in the vicinity of River Mile 208, if the Secretary determines that such work is necessary to protect the overall integrity of the project, on the condition that additional environmental review of the project is conducted.

**Sec. 306. [San Lorenzo River, California.]--** The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1996

(110 Stat. 3663), is modified to authorize the Secretary to include as a part of the project streambank erosion control measures to be undertaken substantially in accordance with the report entitled “Bank Stabilization Concept, Laurel Street Extension", dated April 23, 1998, at a total cost of $4,800,000, with an estimated Federal cost of $3,100,000 and an estimated non-Federal cost of $1,700,000.

**Sec. 307. [Terminus Dam, Kaweah River, California.]--**

(a) Transfer of Title to Additional Land.--If the non-Federal interests for the project for flood control and water supply, Terminus Dam, Kaweah River, California, authorized by section 101(b)(5) of the Water Resources Development Act of 1996 (110 Stat. 3667), transfer to the Secretary without consideration title to perimeter lands acquired for the project by the non-Federal interests, the Secretary may accept the transfer of that title.

(b) Land, Easements, and Rights-of-Way.-- Nothing in this section changes, modifies, or otherwise affects the responsibility of the non-Federal interests to provide land, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the Terminus Dam project and to perform operation and maintenance for the project.

(c) Operation and Maintenance.--On request by the non-Federal interests, the Secretary shall carry out operation, maintenance, repair, replacement, and rehabilitation of the project if the non-Federal interests enter into a binding agreement with the Secretary to reimburse the Secretary for 100 percent of the costs of such operation, maintenance, repair, replacement, and rehabilitation, and any other expenses incurred by the Corps of Engineers under this section.

(d) Hold Harmless.-- The Non-Federal interests shall hold the United States harmless for ownership, operation, and maintenance of lands and facilities of the Terminus Dam project title to which is transferred to the Secretary under this section.

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**Sec. 317. [Milo Creek, Idaho.]--** The Secretary shall reimburse the non-Federal interests for 65 percent of the reasonable costs of flood control for the South Division Street Segment, Milo Creek Flood Control Project, Idaho, to be constructed by the State of Idaho as described in the provision entitled “Add Alternative I" in the Milo Creek Phase II plans and specifications dated April 1999.

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**Sec. 335. [Wood River, Grand Island, Nebraska.]--** The project for flood control, Wood River, Grand Island, Nebraska, authorized by section 101(a)(19) of the Water Resources Development Act of 1996 (110 Stat. 3665), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated June 29, 1998, at a total cost of $17,039,000, with an estimated Federal cost of $9,730,000 and an estimated non-Federal cost of $7,309,000.

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**Sec. 343. [Broken Bow Lake, Red River Basin, Oklahoma.]--** The project for flood control and water supply, Broken Bow Lake, Red River Basin, Oklahoma, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 309) and modified by section 203 of the Flood Control Act of 1962 (76 Stat. 1187), section 102(v) of the Water Resources Development Act of 1992 (106 Stat. 4808), and section 338 of the Water Resources Development Act of 1996 (110 Stat. 3720), is further modified to require the Secretary to make seasonal adjustments to the top of the conservation pool at the project, if the Secretary determines that the adjustments will be undertaken at no cost to the United States and will adequately protect affected water and related resources, as follows: (1) Maintain an elevation of 599.5 from November 1 through March 31.

(2) Increase elevation gradually from 599.5 to 602.5 during April and May. (3) Maintain an elevation of 602.5 from June 1 to September 30. (4) Decrease elevation gradually from 602.5 to 599.5 during October.

**Sec. 344. [Willamette River Temperature Control, McKenzie Subbasin, Oregon.]--**

(a) In General.-- The project for environmental restoration, Willamette River Temperature Control, McKenzie Subbasin, Oregon, authorized by section 101(a)(25) of the Water Resources Development Act of 1996 (110 Stat. 3665), is modified to authorize the Secretary to construct the project substantially in accordance with the Feature Memorandum dated July 31, 1998, at a total cost of $64,741,000, if the Secretary determines that the project as modified is technically sound and environmentally acceptable.

(b) Report.--Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that--

(1) states the reasons for the increase in the cost of the project;

(2) outlines the steps that the Corps of Engineers is taking to control project costs, including the application of value engineering and other appropriate measures; and

(3) includes a cost estimate for, and recommendations on the advisability of, adding fish screens to the project.

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**Sec. 354. [Clear Creek, Texas.]--** Section 575 of the Water Resources Development Act of 1996 (110 Stat. 3789) is amended--

(1) in subsection (a)-- (A) by inserting “or nonstructural actions" after “flood control works constructed"; and (B) by inserting “or nonstructural actions" after “construction of the project"; and

(2) in subsection (b)--

(A) in paragraph (2), by striking “and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and"; and

(C) by adding at the end the following: “(4) the project for flood control, Clear Creek, Texas, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742).".

**Sec. 355. [Cypress Creek, Texas.]--**

(a) In General.--The project for flood control, Cypress Creek, Texas, authorized by section 3(a)(13) of the Water Resources Development Act of 1988 (102 Stat. 4014), is modified to authorize the Secretary to carry out a nonstructural flood control project at a total cost of $5,000,000.

(b) Reimbursement for Work.-- The Secretary may reimburse the non-Federal interest for the Cypress Creek project for work done by the non-Federal interest on the nonstructural flood control project in an amount equal to the estimate of the Federal share, without interest, of the cost of the work--

(1) if, after authorization and before initiation of construction of the nonstructural project, the Secretary approves the plans for construction of the nonstructural project by the non-Federal interest; and

(2) if the Secretary finds, after a review of studies and design documents prepared to carry out the nonstructural project, that construction of the nonstructural project is economically justified and environmentally acceptable.

**Sec. 356. [Dallas Floodway Extension, Dallas, Texas.]--** The project for flood control, Dallas Floodway Extension, Dallas, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091) and modified by section 351 of the Water Resources Development Act of

1996 (110 Stat. 3724), is further modified to add environmental restoration and recreation as project purposes.

**Sec. 357. [Upper Jordan River, Utah.]--** The project for flood control, Upper Jordan River, Utah, authorized by section 101(a)(23) of the Water Resources Development Act of 1990 (104 Stat. 4610) and modified by section 301(a)(14) of the Water Resources Development Act of 1996 (110 Stat. 3709), is further modified to direct the Secretary to carry out the locally preferred project, entitled "Upper Jordan River Flood Control Project, Salt Lake County, Utah-- Supplemental Information" and identified in the document of Salt Lake County, Utah, dated July 30, 1998, at a total cost of $12,870,000, with an estimated Federal cost of $8,580,000 and an estimated non-Federal cost of $4,290,000, if the Secretary determines that the project as modified is technically sound, environmentally acceptable, and economically justified.

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**Sec. 359. [Columbia River Channel, Washington and Oregon.]--**

(a) In General.-- The project for navigation, Columbia River between Vancouver, Washington, and The Dalles, Oregon, authorized by the first section of the Act of July 24, 1946 (60 Stat. 637, chapter 595), is modified to authorize the Secretary to construct an alternate barge channel to traverse the high span of the Interstate Route 5 bridge between Portland, Oregon, and Vancouver, Washington, to a depth of 17 feet, with a width of approximately 200 feet through the high span of the bridge and a width of approximately 300 feet upstream of the bridge.

(b) Distance Upstream.-- The channel shall continue upstream of the bridge approximately 2,500 feet to about river mile 107, then to a point of convergence with the main barge channel at about river mile 108.

(c) Distance Downstream.--

(1) Southern edge.--The southern edge of the channel shall continue downstream of the bridge approximately 1,500 feet to river mile 106+10, then turn northwest to tie into the edge of the Upper Vancouver Turning Basin.

(2) Northern edge.-- The northern edge of the channel shall continue downstream of the bridge to the Upper Vancouver Turning Basin.

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**Sec. 364. [Project Reauthorizations.]--** Each of the following projects is authorized to be carried out by the Secretary, if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified, as appropriate:

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**(5) Park River, Grafton, North Dakota.--** The project for flood control, Park River, Grafton, North Dakota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4121) and deauthorized under section 1001(a) of that Act (33 U.S.C. 579a(a)), at a total cost of $28,100,000, with an estimated Federal cost of $18,265,000 and an estimated non-Federal cost of $9,835,000.

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**Sec. 365. [Project Deauthorizations.]--**

(a) In General.-- The following projects or portions of projects are not authorized after the date of enactment of this Act:

* * * * *

(c) Cost Sharing.-- For the purposes of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213), the modifications authorized by this section shall be subject to the same

cost sharing in effect for the project for flood damage reduction, American and Sacramento Rivers, California, authorized by section 101(a)(1) of the (110 Stat. 3662).

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**Sec. 375. [Waurika Lake, Oklahoma, Water Conveyance Facilities]--** For the project for construction of the water conveyances authorized by the first section of Public Law 88-253 (77 Stat. 841), the requirements for the Waurika Project Master Conservancy District to repay the $2,900,000 in costs (including interest) resulting from the October 1991 settlement of the claim before the United States Claims Court, and to make a payment of $595,000 of the final cost representing a portion of the difference between the 1978 estimate of cost and the actual cost determined after completion of the project in 1991, are waived.

**TITLE IV--STUDIES**

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**Sec. 404. [Del Norte County, California.]--** The Secretary shall conduct a study to determine the feasibility of designating a permanent disposal site for dredged material from Federal navigation projects in Del Norte County, California.

**Sec. 405. [Frazier Creek, Tulare County, California.]--** The Secretary shall conduct a study to determine-- (1) the feasibility of restoring Frazier Creek, Tulare County, California; and (2) the Federal interest in flood control, environmental restoration, conservation of fish and wildlife resources, recreation, and water quality of the creek.

**Sec. 406. Mare Island Strait, California]--**

(a) In General.-- The Secretary shall conduct a general reevaluation to determine the Federal interest in reconfiguring the Mare Island Strait channel.

(b) Considerations.-- In determining the Federal interest, the Secretary shall consider the benefits of economic activity associated with potential future uses of the channel and any other benefits that could be realized by increasing the width and depth of the channel to accommodate both current and potential future uses of the channel.

**Sec. 407. [Strawberry Creek, Berkeley, California.]--** The Secretary shall conduct a study to determine-- (1) the feasibility of restoring Strawberry Creek, Berkeley, California; and (2) the Federal interest in environmental restoration, conservation of fish and wildlife resources, recreation, and water quality of the creek.

**Sec. 408. [Sweetwater Reservoir, San Diego County, California.]--** The Secretary shall conduct a study of the potential water quality problems and pollution abatement measures in the watershed in and around Sweetwater Reservoir, San Diego County, California.

**Sec. 409. [Whitewater River Basin, California.]--** The Secretary shall complete a study to determine the feasibility of a flood damage reduction project in the Whitewater River basin (also known as “Thousand Palms"), California.

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**Sec. 414. [Boise, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of undertaking flood control on the Boise River in Boise, Idaho.

**Sec. 415. [Goose Creek Watershed, Oakley, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of undertaking flood damage reduction, water conservation, ground water recharge, ecosystem restoration, and related activities along the Goose Creek watershed near Oakley, Idaho.

**Sec. 416. [Little Wood River, Gooding, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of restoring and repairing the Lava Rock Little Wood River Containment System to prevent flooding in the city of Gooding, Idaho.

**Sec. 417. [Snake River, Lewiston, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of undertaking bank stabilization and flood control on the Snake River at Lewiston, Idaho.

**Sec. 418. [Snake River and Payette River, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of undertaking a flood control project along the Snake River and Payette River, in the vicinity of Payette, Idaho.

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**Sec. 431. [Yellowstone River, Montana.]**

(a) Study.-- The Secretary shall conduct a comprehensive study of the Yellowstone River from Gardiner, Montana, to the confluence of the Missouri River to determine the hydrologic, biological, and socioeconomic cumulative impacts on the river.

(b) Consultation and Coordination.-- The Secretary shall conduct the study in consultation with the United States Fish and Wildlife Service, the United States Geological Survey, and the Natural Resources Conservation Service and with the full participation of the State of Montana and tribal and local entities, and provide for public participation.

(c) Report.-- Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

**Sec. 432. [Las Valley, Nevada.]--**

(a) In General.-- The Secretary shall conduct a comprehensive study of water resources in the Las Vegas Valley, Nevada.

(b) Objectives.-- The study shall identify problems and opportunities related to ecosystem restoration, water quality (particularly the quality of surface runoff), and flood control.

**Sec. 433. [Southwest Valley, Albuquerque, New Mexico.]--** The Secretary shall conduct a study to determine the feasibility of undertaking a project for flood damage reduction in the Southwest Valley, Albuquerque, New Mexico.

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**Sec. 446. [Day County, South Dakota.]--** The Secretary shall conduct--

(1) an investigation of flooding and other water resources problems between the James River and Big Sioux watersheds, South Dakota; and

(2) an assessment of flood damage reduction needs of the area.

**Sec. 447. [Niobrara River and Missouri River, South Dakota.]--** The Secretary shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River, South Dakota, to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

**Sec. 448. [Corpus Christi, Texas.]--** The Secretary shall include, as part of the study authorized by a resolution of the Committee on Public Works and Transportation of the House of Representatives dated August 1, 1990, a review of two 175-foot-wide barge shelves on either side of the navigation channel at the Port of Corpus Christi, Texas.

**Sec. 449. [Mitchell's Cut Channel (Caney Fork Cut), Texas.]--** The Secretary shall conduct a study to determine the feasibility of undertaking a project for navigation, Mitchell's Cut Channel (Caney Fork Cut), Texas.

**Sec. 450. [Mouth of Colorado River, Texas.]--** The Secretary shall conduct a study to determine the feasibility of undertaking a project for navigation at the mouth of the Colorado River, Texas, to provide a minimum draft navigation channel extending from the Colorado River

through Parkers Cut (also known as “Tiger Island Cut"), or an acceptable alternative, to Matagorda Bay.

**Sec. 451. [Santa Clara River, Utah.]**

(a) In General.-- The Secretary shall conduct a study to determine the feasibility of undertaking measures to alleviate damage caused by flooding, bank erosion, and sedimentation along the watershed of the Santa Clara River, Utah, above the Gunlock Reservoir.

(b) Contents.-- The study shall include an analysis of watershed conditions and water quality, as related to flooding and bank erosion, along the Santa Clara River in the vicinity of Gunlock, Utah.

**Sec. 452. [Mount St. Helens, Washington.]--**

(a) In General.-- The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration improvements throughout the Cowlitz and Toutle River basins, Washington, including the 6,000 acres of wetland, riverine, riparian, and upland habitats lost or altered due to the eruption of Mount St. Helens in 1980 and subsequent emergency actions.

(b) Requirements.--In carrying out the study, the Secretary shall--

(1) work in close coordination with local governments, watershed entities, the State of Washington, and other Federal agencies; and

(2) place special emphasis on—

(A) conservation and restoration strategies to benefit species that are listed or proposed for listing as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) other watershed restoration objectives.

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**TITLE V--MISCELLANEOUS PROVISIONS**

**Sec. 501. [Corps Assumption of NRCS Projects.]—**

**(a) Llagas Creek, California**.-- The Secretary may complete the remaining reaches of the Natural Resources Conservation Service flood control project at Llagas Creek, California, undertaken pursuant to section 5 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1005), substantially in accordance with the Natural Resources Conservation Service watershed plan for Llagas Creek, Department of Agriculture, and in accordance with the requirements of local cooperation as specified in section 4 of that Act (16 U.S.C. 1004), at a total cost of $45,000,000, with an estimated Federal cost of $21,800,000 and an estimated non-Federal cost of $23,200,000.

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**Sec. 502. [Environmental Infrastructure.]--**

(a) In General.-- Section 219(e) of the Water Resources Development Act of 1992 (106 Stat. 4835; 110 Stat. 3757) is amended by striking paragraphs (5) and (6) and inserting the following:” (5) $25,000,000 for the project described in subsection (c)(2); “(6) $20,000,000 for the project described in subsection (c)(9); “(7) $30,000,000 for the project described in subsection (c)(16); and “(8) $30,000,000 for the project described in subsection (c)(17).".

(b) Additional Assistance.-- Section 219 of the Water Resources Development Act of 1992 is amended by adding at the end the following: “(f) Additional Assistance.--The Secretary may provide assistance under subsection (a) and assistance for construction for the following:

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**“(22) East San Joaquin County, California**.-- $25,000,000 for ground water recharge and conjunctive use projects in Stockton East Water District, California.

**"(23) Sacramento Area, California**.-- $25,000,000 for regional water conservation and recycling projects in Placer and El Dorado Counties and the San Juan Suburban Water District, California.

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**"(38) Astoria, Oregon**.-- $5,000,000 for a project to eliminate or control combined sewer overflows in the city of Astoria, Oregon.

**"(39) Cache County, Utah**.-- $5,000,000 for a wastewater infrastructure project for Cache County, Utah.

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**"(41) Lancaster, California.**-- $1,500,000 for a project to provide water facilities for the Fox Field Industrial Corridor, Lancaster, California.

**"(42) San Ramon Valley, California**.-- $15,000,000 for a project for recycled water for San Ramon Valley, California.

**"(43) Harbor/South Bay, California**.-- $15,000,000 for an industrial water reuse project for the Harbor/South Bay area, California.".

**Sec. 503. [Contaminated Sediment Dredging Technology.]--**

(a) Review of Innovative Dredging Technologies.--

(1) In general.-- Not later than June 1, 2001, the Secretary shall complete a review of innovative dredging technologies designed to minimize or eliminate contamination of a water column upon removal of contaminated sediments.

(2) Testing.—

(A) Selection of technology.--After completion of the review under paragraph (1), the Secretary shall select, from among the technologies reviewed, the technology that the Secretary determines will best increase the effectiveness of removing contaminated sediments and significantly reduce contamination of the water column.

(B) Agreement.-- Not later than December 31, 2001, the Secretary shall enter into an agreement with a public or private entity to test the selected technology in the vicinity of Peoria Lakes, Illinois.

(3) Authorization of appropriations.-- There is authorized to be appropriated to carry out this subsection $2,000,000.

(b) Accelerated Adoption of Innovative Technologies.-- Section 8 of the Water Resources Development Act of 1988 (33 U.S.C. 2314) is amended--

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following: "(b) Accelerated Adoption of Innovative Technologies for Management of Contaminated Sediments.—

"(1) Test projects.-- The Secretary shall approve an appropriate number of projects to test, under actual field conditions, innovative technologies for environmentally sound management of contaminated sediments.

"(2) Demonstration projects.-- The Secretary may approve an appropriate number of projects to demonstrate innovative technologies that have been pilot tested under paragraph (1).

"(3) Conduct of projects.--Each pilot project under paragraph (1) and demonstration project under paragraph (2) shall be conducted by a university with proven expertise in the research and development of contaminated sediment treatment technologies and innovative applications using waste materials.

"(4) Location.-- At least 1 of the projects under this subsection shall be conducted in New England by the University of New Hampshire.".

**Sec. 504. [Dam Safety.]--** (a) Assistance.-- The Secretary may provide assistance to enhance dam safety at the following locations:

**(1) Healdsburg Veteran's Memorial Dam, California.**

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**Sec. 511. [Water Control Management.]--**

(a) In General.-- In evaluating potential improvements for water control management activities and consolidation of water control management centers, the Secretary may consider a regionalized water control management plan but may not implement such a plan until the date on which a report is submitted under subsection (b).

(b) Report.--Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate a report containing--

(1) a description of the primary objectives of streamlining water control management activities;

(2) a description of the benefits provided by streamlining water control management activities through consolidation of centers for those activities;

(3) a determination whether the benefits to users of establishing regional water control management centers will be retained in each district office of the Corps of Engineers that does not have a regional center;

(4) a determination whether users of regional centers will receive a higher level of benefits from streamlining water control management activities; and

(5) a list of the members of Congress who represent a district that includes a water control management center that is to be eliminated under a proposed regionalized plan.

**Sec. 512. [Beneficial Use of Dredged Material.]--** The Secretary may carry out the following projects under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326):

**(1) Bodega Bay, California**.--A project to make beneficial use of dredged material from a Federal navigation project in Bodega Bay, California.

* * * * *

**(4) Rose City Marsh, Orange County, Texas.--** A project to make beneficial use of dredged material from a Federal navigation project in Rose City Marsh, Orange County, Texas.

**(5) Bessie Heights Marsh, Orange County, Texas**.-- A project to make beneficial use of dredged material from a Federal navigation project in Bessie Heights Marsh, Orange County, Texas.

**Sec. 516. [Innovative Technologies for Watershed Restoration.]--** The Secretary shall examine using, and, if appropriate, encourage the use of, innovative treatment technologies, including membrane technologies, for watershed and environmental restoration and protection projects involving water quality.

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**Sec. 520. [Navajo Reservation, Arizona, New Mexico, and Utah.]--**

(a) In General.-- In cooperation with other appropriate Federal and local agencies, the Secretary shall undertake a survey of, and provide technical, planning, and design assistance for, watershed

management, restoration, and development on the Navajo Indian Reservation, Arizona, New Mexico, and Utah.
(b) Cost Sharing.-- The Federal share of the cost of activities carried out under this section shall be 75 percent. Funds made available under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be used by the Navajo Nation in meeting the non-Federal share of the cost of the activities.
(c) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $12,000,000 for the period beginning with fiscal year 2000.

**Sec. 523. [Chino Dairy Preserve, California.]--**
(a) Technical Assistance.-- The Secretary, in coordination with the heads of other Federal agencies, shall provide technical assistance to State and local agencies in the study, design, and implementation of measures for flood damage reduction and environmental restoration and protection in the Santa Ana River watershed, California, with particular emphasis on structural and nonstructural measures in the vicinity of the Chino Dairy Preserve.
(b) Cost Sharing.-- The Non-Federal share of the cost of activities assisted under subsection (a) shall be 50 percent.
(c) Comprehensive Study.-- The Secretary shall conduct a feasibility study to determine the most cost-effective plan for flood damage reduction and environmental restoration and protection in the vicinity of the Chino Dairy Preserve, Santa Ana River watershed, Orange County and San Bernardino County, California.

**Sec. 524. [Orange and San Diego Counties, California.]--**
(a) In General.-- The Secretary, in cooperation with local governments, may prepare special area management plans for Orange and San Diego Counties, California, to demonstrate the effectiveness of using the plans to provide information regarding aquatic resources.
(b) Use of Plans.-- The Secretary may--
(1) use plans described in subsection (a) in making regulatory decisions; and
(2) issue permits consistent with the plans.

**Sec. 525. [Rush Creek, Novato, California]--** The Secretary shall carry out a project for flood control under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) at Rush Creek, Novato, California, if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified.

**Sec. 526. [Santa Cruz Harbor, California.]--** The Secretary may—
(1) modify the cooperative agreement with the Santa Cruz Port District, California, to reflect unanticipated additional dredging effort; and
(2) extend the agreement for 10 years.

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**Sec. 545. [Sardis Reservoir, Oklahoma.]--**
(a) In General.-- The Secretary shall accept from the State of Oklahoma or an agent of the State an amount, determined under subsection (b), as prepayment of 100 percent of the water supply cost obligation of the State under Contract No. DACW56-74-JC-0314 for water supply storage at Sardis Reservoir, Oklahoma.
(b) Determination of Amount.-- The amount to be paid by the State of Oklahoma under subsection (a) shall be subject to adjustment in accordance with accepted discount purchase methods for Federal Government properties as determined by an independent accounting firm designated by the Director of the Office of Management and Budget. The cost of the determination shall be paid for by the State of Oklahoma or an agent of the State.

(c) Effect.-- Nothing in this section affects any of the rights or obligations of the parties to the contract referred to in subsection (a).

**Sec. 546. [Skinner Butte Park, Eugene, Oregon.]--**

(a) Study.--The Secretary shall conduct a study of the south bank of the Willamette River, in the area of Skinner Butte Park from Ferry Street Bridge to the Valley River footbridge, to determine the feasibility of carrying out a project to stabilize the river bank, and to restore and enhance riverine habitat, using a combination of structural and bioengineering techniques.

(b) Federal Participation.--If, on completion of the study, the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified, the Secretary may participate with non-Federal interests in the project.

(c) Cost Sharing.-- The Non-Federal share of the cost of the project shall be 35 percent.

(d) Land, Easements, and Rights-of-Way.--

(1) In general.--The Non-Federal interest shall provide land, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction of the project.

(2) Credit toward non-federal share.-- The value of the land, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interests shall be credited toward the non-Federal share.

(e) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $1,000,000 for the period beginning with fiscal year 2000.

**Sec. 547. [Willamette River Basin, Oregon.]--**

(a) In General.--The Secretary, the Director of the Federal Emergency Management Agency, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies shall, using authorities under law in effect on the date of enactment of this Act, assist the State of Oregon in developing and implementing a comprehensive basin-wide strategy in the Willamette River basin, Oregon, for coordinated and integrated management of land and water resources to improve water quality, reduce flood hazards, ensure sustainable economic activity, and restore habitat for native fish and wildlife.

(b) Technical Assistance, Staff, and Financial Support.-- The heads of the Federal agencies may provide technical assistance, staff, and financial support for development of the basin-wide management strategy.

(c) Flexibility.-- The heads of the Federal agencies shall exercise flexibility to reduce barriers to efficient and effective implementation of the basin-wide management strategy.

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**Sec. 555. [Oahe Dam to Lake Sharpe, South Dakota, Study.]--** Section 441 of the Water Resources Development Act of 1996 (110 Stat. 3747) is amended--

(1) by inserting “(a) Investigation.— before “The Secretary"; and

(2) by adding at the end the following: “(b) Report.-- later than September 30, 1999, the Secretary shall submit to Congress a report on the results of the investigation under this section. The report shall include the examination of financing options for regular maintenance and preservation of the lake. The report shall be prepared in coordination and cooperation with the Natural Resources Conservation Service, other Federal agencies, and State and local officials.".

**Sec. 556. [North Padre Island Storm Damage Reduction and Environmental Restoration Project.]--** The Secretary is directed to carry out a project for ecosystem restoration and storm damage reduction at North Padre Island, Corpus Christi Bay, Texas, at a total estimated cost of $30,000,000, with an estimated Federal cost of $19,500,000 and an estimated non-Federal cost of

$10,500,000, if the Secretary determines that the work is technically sound and environmentally acceptable. The Secretary shall make such a determination not later than 270 days after the date of enactment of this Act.

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**Sec. 563. [Land Conveyances.]--**

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(g) **Dexter, Oregon**.--

(1) In general.--The Secretary shall convey to the Dexter Sanitary District all right, title, and interest of the United States in and to a parcel of land consisting of approximately 5 acres located at Dexter Lake, Oregon, under lease to the Dexter Sanitary District.

(2) Consideration.--Land to be conveyed under this subsection shall be conveyed without consideration. If the land is no longer held in public ownership or no longer used for wastewater treatment purposes, title to the land shall revert to the Secretary.

(3) Terms and conditions.-- The conveyance by the United States shall be subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(4) Surveys.-- The exact acreage and description of the land to be conveyed under paragraph (1) shall be determined by such surveys as the Secretary considers necessary. The cost of the surveys shall be borne by the Dexter Sanitary District.

(j) **Clarkston, Washington**.--

(1) In general.--The Secretary shall convey to the Port of Clarkston, Washington, all right, title, and interest of the United States in and to a portion of the land described in the Department of the Army Lease No. DACW68-1-97-22, consisting of approximately 31 acres, the exact boundaries of which shall be determined by the Secretary and the Port of Clarkston.

(2) Additional land.-- The Secretary may convey to the Port of Clarkston, Washington, such additional land located in the vicinity of Clarkston, Washington, as the Secretary determines to be excess to the needs of the Columbia River Project and appropriate for conveyance.

(3) Terms and conditions.-- The conveyances made under paragraphs (1) and (2) shall be subject to such terms and conditions as the Secretary considers necessary to protect the interests of the United States, including a requirement that the Port of Clarkston pay all administrative costs associated with the conveyances, including the cost of land surveys and appraisals and costs associated with compliance with applicable environmental laws (including regulations).

(4) Use of land.-- The Port of Clarkston shall be required to pay the fair market value, as determined by the Secretary, of any land conveyed under paragraphs (1) and (2) that is not retained in public ownership and used for public park or recreation purposes, except that the Secretary shall have a right of reverter to reclaim possession and title to any such land.

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(l) **McNary National Wildlife Refuge.**--

(1) Transfer of administrative jurisdiction.--Administrative jurisdiction over the McNary National Wildlife Refuge is transferred from the Secretary to the Secretary of the Interior.

(2) Land exchange with the Port of Walla Walla, Washington.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior may exchange approximately 188 acres of land located south

of Highway 12 and comprising a portion of the McNary National Wildlife Refuge for approximately 122 acres of land owned by the Port of Walla Walla, Washington, and located at the confluence of the Snake River and the Columbia River.

(B) Terms and conditions.--The land exchange under subparagraph (A) shall be carried out in accordance with such terms and conditions as the Secretary of the Interior determines to be necessary to protect the interests of the United States, including a requirement that the Port pay—

(i) reasonable administrative costs (not to exceed $50,000) associated with the exchange; and

(ii) any excess (as determined by the Secretary of the Interior) of the fair market value of the parcel conveyed by the Secretary of the Interior over the fair market value of the parcel conveyed by the Port.

(C) Use of funds.--The Secretary of the Interior may retain any funds received under subparagraph (B)(ii) and, without further Act of appropriation, may use the funds to acquire replacement habitat for the Mid-Columbia River National Wildlife Refuge Complex.

(3) Management.--The McNary National Wildlife Refuge and land conveyed by the Port of Walla Walla, Washington, under paragraph (2) shall be managed in accordance with applicable laws, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**Sec. 564. [McNary Pool, Washington.]--**

(a) Extinguishment of Reversionary Interests and Use Restrictions.-- With respect to each deed listed in subsection (b)--

(1) the reversionary interests and the use restrictions relating to port or industrial purposes are extinguished;

(2) the human habitation or other building structure use restriction is extinguished in each area where the elevation is above the standard project flood elevation; and

(3) the use of fill material to raise low areas above the standard project flood elevation is authorized, except in any low area constituting wetland for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) would be required.

(b) Affected Deeds.-- The deeds with the following county auditor's file numbers are referred to in subsection (a):

(1) Auditor's File Numbers 521608 and 529071 of Benton County, Washington.

(2) Auditor's File Numbers 262980, 263334, 318437, and 404398 of Franklin County, Washington.

(3) Auditor's File Numbers 411133, 447417, 447418, 462156, 563333, and 569593 of Walla Walla County, Washington.

(4) Auditor's File Number 285215 of Umatilla County, Oregon, executed by the United States.

(c) No Effect on Other Rights.--Nothing in this section affects the remaining rights and interests of the Corps of Engineers for authorized project purposes.

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**Sec. 566. [Folsom Dam and Reservoir Additional Storage and Additional Flood Control Studies]--**

(a) Folsom Flood Control Studies.—

(1) In general.-- The Secretary, in consultation with the State of California and local water resources agencies, shall undertake a study of increasing surcharge flood control storage at the Folsom Dam and Reservoir.

(2) Limitations.-- The study of the Folsom Dam and Reservoir undertaken under paragraph (1) shall assume that there is to be no increase in conservation storage at the Folsom Reservoir.

(3) Report.-- Not later than March 1, 2000, the Secretary shall transmit to Congress a report on the results of the study under this subsection.

(b) American and Sacramento Rivers Flood Control Study.--

(1) In general.--The Secretary shall undertake a study of all levees on the American River and on the Sacramento River downstream and immediately upstream of the confluence of such Rivers to access opportunities to increase potential flood protection through levee modifications.

(2) Deadline for completion.--Not later than March 1, 2000, the Secretary shall transmit to Congress a report on the results of the study undertaken under this subsection.

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**Sec. 572. [Sacramento Metropolitan Area Watershed Restoration, California.]--**

(a) Limitation.--The Secretary may undertake studies to determine the extent of ground water contamination and the feasibility of prevention and cleanup of such contamination resulting from the acts of a Federal department or agency—

(1) at or in the vicinity of McClellan Air Force Base, Mather Air Force Base, or Sacramento Army Depot, California; or

(2) at any place in the Sacramento metropolitan area watershed where the Federal Government would be a responsible party under any Federal environmental law.

(b) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $1,000,000 for the period beginning with fiscal year 2000.

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**Sec. 575. [Eel River, California.]--**

(a) In General.-- The Secretary shall conduct a study to determine whether flooding in the city of Ferndale, California, is the result of the Federal flood control project on the Eel River.

(b) Mitigation Measures.-- If the Secretary determines that the flooding is the result of the project, the Secretary shall take appropriate measures (including dredging of the Salt River and construction of sediment ponds at the confluence of Francis, Reas, and Williams Creeks) to mitigate the flooding.

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**Sec. 582. [Research and Development Program for Columbia and Snake Rivers Salmon Survival.]--** Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note; Public Law 104-303) is amended by striking subsection (a) and all that follows and inserting the following:

"(a) Salmon Survival Activities.--

"(1) In general.--In conjunction with the Secretary of Commerce and the Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

"(2) Accelerated activities.-- Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

"(A) impacts from water resources projects and other impacts on salmon life cycles;

"(B) juvenile and adult salmon passage;

"(C) light and sound guidance systems;

"(D) surface-oriented collector systems;

"(E) transportation mechanisms; and

"(F) dissolved gas monitoring and abatement.

"(3) Additional activities.--Additional research and development activities referred to in paragraph (1) may include research and development related to—

'(A) studies of juvenile salmon survival in spawning and rearing areas;

'(B) estuary and near-ocean juvenile and adult salmon survival;

'(C) impacts on salmon life cycles from sources other than water resources projects;

"(D) cryopreservation of fish gametes and formation of a germ plasma repository for threatened and endangered populations of native fish; and

"(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

"(4) Coordination.-- The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

"(5) Report.--Not later than 3 years after the date of enactment of the Water Resources Development Act of 1999, the Secretary shall submit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

"(6) Authorization of appropriations.--There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

"(b) Advanced Turbine Development.--

"(1) In general.--In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers-operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of fish-friendly turbines, for use on the Columbia/Snake River hydrosystem.

"(2) Authorization of appropriations.-- There is authorized to be appropriated $35,000,000 to carry out this subsection.

"(c) Management of Predation on Columbia/Snake River System Native Fishes.--

"(1) Nesting avian predators.-- In conjunction with the Secretary of Commerce and the Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

"(2) Authorization of appropriations.--There is authorized to be appropriated $1,000,000 to carry out research and development activities under this subsection.

"(d) Implementation.--Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.".

**Sec. 583. [Larkspur Ferry Channel, California.]--** The Secretary shall work with the Secretary of Transportation on a proposed solution to carry out the project to maintain the Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148).

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**Sec. 585. [San Jacinto Disposal Area, Galveston, Texas.]--** Section 108 of the Energy and Water Development Appropriations Act, 1994 (107 Stat. 1320), is amended--

(1) in the first sentence of subsection (a), by inserting "all or any part of" after "absolute title to";

(2) by striking subsection (b) and inserting the following:

"(b) Compensation for Conveyance.—

"(1) In general.--Upon receipt of compensation from the city of Galveston, the Secretary shall convey the parcel, or any part of the parcel, as described in subsection (a).

"(2) Full parcel.--If the full 605-acre parcel is conveyed, the compensation shall be-

"(A) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, city of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States, with the fair market value of the parcel being determined in accordance with subsection (d); and

"(B) payment to the United States of an amount equal to the difference between the fair market value of the parcel to be conveyed under subsection (a) and the fair market value of the parcel to be conveyed under subparagraph (A).

"(3) Partial parcel.-- If the conveyance is 125 acres or less, compensation shall be an amount equal to the fair market value of the parcel to be conveyed, with the fair market value of the parcel being determined in accordance with subsection (d)."; and (3) in the second sentence of subsection (c)—

(A) by inserting ", or any part of the parcel," after "parcel"; and

(B) by inserting ", if any," after "LCA".

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**Sec. 589. [Numana Dam Fish Passage, Nevada.]--** After the date of enactment of this Act, the Secretary shall complete planning, design, and construction of the Numana Dam Fish Passage Project, currently being evaluated under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), under section 906(b) of that Act (33 U.S.C. 2283(b)).

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**Sec. 593. [Central New Mexico.]--**

(a) Definition of Central New Mexico.-- In this section, the term "central New Mexico" means the counties of Bernalillo, Sandoval, and Valencia, New Mexico.

(b) Establishment of Program.-- The Secretary may establish a pilot program to provide environmental assistance to non-Federal interests in central New Mexico.

(c) Form of Assistance.-- Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in central New Mexico, including projects for wastewater treatment

and related facilities, water supply, conservation, and related facilities, stormwater retention and remediation, environmental restoration, and surface water resource protection and development.
(d) Public Ownership Requirement.--The Secretary may provide assistance for a project under this section only if the project is publicly owned.
(e) Local Cooperation Agreement.--

(1) In general.--Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.
(2) Requirements.--Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) Plan.-- Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.
(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.—

(A) In general.--The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.
(B) Credit for design work.-- The Non-Federal interest shall receive credit for the reasonable costs of design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project. The credit for the design work shall not exceed 6 percent of the total construction costs of the project.
(C) Credit for interest.--In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.
(D) Land, easements, and rights-of-way credit.--The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.
(E) Operation and maintenance.--The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.
(f) Applicability of Other Federal and State Laws.--Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.
(g) Report.--Not later than December 31, 2001, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section, including recommendations concerning whether the program should be implemented on a national basis.

(h) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $25,000,000 for the period beginning with fiscal year 2000, to remain available until expended.

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**Sec. 595. [Rural Nevada and Montana.]--**

(a) Definition of Rural Nevada.--In this section, the term “rural Nevada" means--

(1) the counties of Lincoln, White Pine, Nye, Eureka, Elko, Humboldt, Pershing, Churchill, Storey, Lyon, Carson, Douglas, Mineral, Esmeralda, and Lader, Nevada;

(2) the portions of Washoe County, Nevada, that are located outside the cities of Reno and Sparks; and

(3) the portions of Clark County, Nevada, that are located outside the cities of Las Vegas, North Las Vegas, and Henderson and the unincorporated portion of the county in the Las Vegas Valley.

(b) Establishment of Program.--The Secretary may establish a program for providing environmental assistance to non-Federal interests in rural Nevada and Montana.

(c) Form of Assistance.--Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in rural Nevada and Montana, including projects for--

(1) wastewater treatment and related facilities;

(2) water supply and related facilities;

(3) environmental restoration; and

(4) surface water resource protection and development.

(d) Public Ownership Requirement.-- The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) Local Cooperation Agreement.--

(1) In general.--Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.--Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) Plan.--Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.—

(A) In general.--The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) Credit for design work.--The Non-Federal interest shall receive credit for the reasonable costs of design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project.

(C) Credit for interest.--In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-

Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project costs.

(D) Land, easements, rights-of-way, and relocations.--The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) Operation and maintenance.--The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) Applicability of Other Federal and State Laws.-- Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) Report.--Not later than December 31, 2001, the Secretary shall submit to Congress a report on the results of the program carried out under this section, including recommendations concerning whether the program should be implemented on a national basis.

(h) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2001--

(1) $25,000,000 for rural Nevada; and

(2) $25,000,000 for Montana; to remain available until expended.

**Sec. 596. [Phoenix, Arizona.]**-- Section 1608 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-6) is amended--

(1) by striking subsection (a) and inserting the following:“(a) The Secretary, in cooperation with the city the city of Phoenix, Arizona, shall participate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural and environmental purposes, groundwater recharge and indirect potable reuse in the Phoenix metropolitan area.";

(2) in subsection (b), by striking the first sentence; and

(3) by striking subsection (c).

**TITLE VI—Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration.**

**Sec. 601. [Definitions.]**-- In this title, the following definitions apply:

(1) Commission.-- The term “Commission" means the South Dakota Cultural Resources Advisory Commission established by section 605(j).

(2) Restoration.--The term “restoration" means mitigation of the habitat of wildlife.

(3) Secretary.--The term “Secretary" means the Secretary of the Army.

(4) Terrestrial wildlife habitat.-- The term “terrestrial wildlife habitat" means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

(5) Wildlife.-- The term “wildlife" has the meaning given the term in section 8 of the Fish and Wildlife Coordination Act (16 U.S.C. 666b).

**Sec. 602. [Terrestrial Wildlife Habitat Restoration.]**--

(a) Terrestrial Wildlife Habitat Restoration Plans.--

(1) In general.--In accordance with this subsection and in consultation with the Secretary and the Secretary of the Interior, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall, as a condition of the receipt of funds under this title, each develop a plan for the restoration of terrestrial wildlife habitat loss that occurred as a result of flooding related to the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) Submission of plan to secretary.--On completion of a plan for terrestrial wildlife habitat restoration, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall submit the plan to the Secretary.

(3) Review by secretary and submission to committees.--The Secretary shall review the plan and submit the plan, with any comments, to the appropriate committees of the Senate and the House of Representatives.

(4) Funding for carrying out plans.--

(A) State of South Dakota.—

(i) Notification.-- On receipt of the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota, each of the committees referred to in paragraph (3) shall notify the Secretary of the receipt of the plan.

(ii) Availability of funds.--On notification in accordance with clause (i), the Secretary shall make available to the State of South Dakota funds from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 603, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State and only after the Trust Fund is fully capitalized.

(B) Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe.—

(i) Notification.-- On receipt of the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, each of the committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of each of the plans.

(ii) Availability of funds.-- On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 604, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively, and only after the Trust Fund is fully capitalized.

(C) Transition period.—

(i) In general.--During the period described in clause (ii), the Secretary shall—

(I) fund the terrestrial wildlife habitat restoration programs being carried out on the date of enactment of this Act on Oahe and Big Bend project land and the plans established under this section at a level that does not exceed the highest amount of funding that was provided for the programs during a previous fiscal year; and

(II) fund the activities described in sections 603(d)(3) and 604(d)(3).

(ii) Period.--Clause (i) shall apply during the period—

(I) beginning on the date of enactment of this Act; and
(II) ending on the date on which funds are made available for use from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund under section 603(d)(3)(A)(i) and the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund under section 604(d)(3)(A)(i).

(b) Programs for the Purchase of Wildlife Habitat Leases.--

(1) In general.--The State of South Dakota may use funds made available under section 603(d)(3)(A)(iii) to develop a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) Development of a plan.--

(A) In general.--If the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe elects to conduct a program under this subsection, the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe (in consultation with the United States Fish and Wildlife Service and the Secretary and with an opportunity for public comment) shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species, associated with the Missouri River ecosystem.

(B) Use for program.--The plan shall be used by the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe in carrying out the program carried out under paragraph (1).

(3) Conditions of leases.--Each lease covered under a program carried out under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide--

(A) public access for sportsmen during hunting season; and
(B) public access for other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe.

(4) Use of assistance.--

(A) State of South Dakota.--If the State of South Dakota conducts a program under this subsection, the State may use funds made available under section 603(d)(3)(A)(iii) to-- (i) acquire easements, rights-of-way, or leases for management and protection of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private property in the State of South Dakota; (ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse such private property; or (iii) lease land for the creation or restoration of a wetland on such private property.

(B) Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe.-- If the Cheyenne River Sioux Tribe or the Lower Brule Sioux Tribe conducts a program under this subsection, the Tribe may use funds made available under section 604(d)(3)(A)(iii) for the purposes described in subparagraph (A).

(c) Federal Obligation for Terrestrial Wildlife Habitat Mitigation for the Big Bend and Oahe Projects in South Dakota.--The establishment of the trust funds under sections 603 and 604 and the development and implementation of plans for terrestrial wildlife habitat restoration developed by the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe in accordance with this section shall be considered to satisfy the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for terrestrial wildlife

habitat mitigation for the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

**Sec. 603. [South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund.]--**

(a) Establishment.-- There is established in the Treasury of the United States a fund to be known as the “South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund" (referred to in this section as the “Fund").

(b) Funding.-- For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least $108,000,000, the Secretary of the Treasury shall transfer $10,000,000 from the general fund of the Treasury to the Fund.

(c) Investments.--

(1) In general.-- At the request of the Secretary, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(2) Interest rate.-- The Secretary of the Treasury shall invest amounts in the fund in obligations that carry the highest rate of interest among available obligations of the required maturity.

(d) Payments.--

(1) In general.-- All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3) after the Fund has been fully capitalized.

(2) Withdrawal and transfer of funds.--Subject to section 602(a)(4)(A), the Secretary shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use as State funds in accordance with paragraph (3) after the Fund has been fully capitalized.

(3) Use of transferred funds.--

(A) In general.--Subject to subparagraph (B), the State of South Dakota shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the State developed under section 602(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the State;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the State of South Dakota by the Secretary;

(III) purchase and administer wildlife habitat leases under section 602(b);

(IV) carry out other activities described in section 602; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) Prohibition.-- The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) Transfers and Withdrawals.-- Except as provided in subsection (d), the Secretary may not transfer or withdraw any amount deposited under subsection (b). (f) Administrative Expenses.-- There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

**Sec. 604. [Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.]--**

(a) Establishment.-- There are established in the Treasury of the United States 2 funds to be known as the "Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund" and the "Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund" (each of which is referred to in this section as a "Fund").

(b) Funding.--

(1) In general.--Subject to paragraph (2), for the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Funds under this subsection is equal to at least $57,400,000, the Secretary of the Treasury shall transfer $5,000,000 from the general fund of the Treasury to the Funds.

(2) Allocation.-- Of the total amount of funds deposited in the Funds for a fiscal year, the Secretary of the Treasury shall deposit--

(A) 74 percent of the funds into the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund; and

(B) 26 percent of the funds into the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund.

(c) Investments.--

(1) In general.--The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(2) Interest rate.--The Secretary of the Treasury shall invest amounts in the Funds in obligations that carry the highest rate of interest among available obligations of the required maturity.

(d) Payments.--

(1) In general.-- All amounts credited as interest under subsection (c) shall be available after the Trust Funds are fully capitalized, without fiscal year limitation, to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for their use in accordance with paragraph (3).

(2) Withdrawal and transfer of funds.-- Subject to section 602(a)(4)(B), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for use in accordance with paragraph (3).

(3) Use of transferred funds.--

(A) In general.-- Subject to subparagraph (B), the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall use the amounts transferred under paragraph (2) only to-

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the respective Tribe developed under section 602(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the respective Tribe;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the respective Tribe by the Secretary;
(III) purchase and administer wildlife habitat leases under section 602(b);
(IV) carry out other activities described in section 602; and
(V) develop and maintain public access to, and protect, wildlife habit and recreation areas along the Missouri River.

(B) Prohibition.-- The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) Transfers and Withdrawals.-- Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) Administrative Expenses.-- There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

**Sec. 605. [Transfer of Federal Land to State of South Dakota.]--**

(a) In General.--

(1) Transfer.--

(A) In general.-- The Secretary shall transfer to the Department of Game, Fish and Parks of the State of South Dakota (referred to in this section as the “Department") the land and recreation areas described in subsections (b) and (c) for fish and wildlife purposes, or public recreation uses, in perpetuity.

(B) Permits, rights-of-way, and easements.-- All permits, rights-of-way, and easements granted by the Secretary to the Oglala Sioux Tribe for land on the west side of the Missouri River between the Oahe Dam and Highway 14, and all permits, rights-of-way, and easements on any other land administered by the Secretary and used by the Oglala Sioux Rural Water Supply System, are granted to the Oglala Sioux Tribe in perpetuity to be held in trust under section 3(e) of the Mni Wiconi Project Act of 1988 (102 Stat. 2568).

(2) Uses.-- The Department shall maintain and develop the land outside the recreation areas for fish and wildlife purposes in accordance with-- (A) fish and wildlife purposes in effect on the date of enactment of this Act; or (B) a plan developed under section 602.

(3) Corps of Engineers.-- The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.), or other applicable law.

(4) Secretary.-- The Secretary shall retain the right to inundate with water the land transferred to the Department under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(b) Land Transferred.-- The land described in this subsection is land that--

(1) is located above the top of the exclusive flood pool of the Oahe, Big Bend, Fort Randall, and Gavin's Point projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary for the implementation of the Pick-Sloan Missouri River Basin program;

(3) is located outside the external boundaries of a reservation of an Indian Tribe; and

(4) is located within the State of South Dakota.

(c) Recreation Areas Transferred.-- A recreation area described in this section includes the land and facilities within a recreation area that--

(1) the Secretary determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;
(2) is located outside the external boundaries of a reservation of an Indian Tribe; (3) is located within the State of South Dakota;
(4) is not the recreation area known as “Cottonwood", “Training Dike", or “Tailwaters"; and
(5) is located below Gavin's Point Dam in the State of South Dakota in accordance with boundary agreements and reciprocal fishing agreements between the State of South Dakota and the State of Nebraska in effect on the date of enactment of this Act, which agreements shall continue to be honored by the State of South Dakota as the agreements apply to any land or recreation areas transferred under this title to the State of South Dakota below Gavin's Point Dam and on the waters of the Missouri River.

(d) Map.--

(1) In general.-- The Secretary, in consultation with the Department, shall prepare a map of the land and recreation areas transferred under this section.

(2) Land.-- The map shall identify--

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures which shall be retained by the Secretary.

(3) Availability.--The map shall be on file in the appropriate offices of the Secretary.

(e) Schedule for Transfer.--

(1) In general.-- Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Secretary of the Department shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) Transfer deadline.-- All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the Trust Fund described in section 603.

(f) Transfer Conditions.-- The land and recreation areas described in subsections (b) and (c) shall be transferred in fee title to the Department on the following conditions:

(1) Responsibility for damage.-- The Secretary shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) Easements, rights-of-way, leases, and cost-sharing agreements.--The Department shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(g) Hunting and Fishing.--

(1) In general.-- Except as provided in this section, nothing in this title affects jurisdiction over the waters of the Missouri River below the water's edge and outside the exterior boundaries of an Indian reservation in South Dakota.

(2) Jurisdiction.--

(A) Transferred land.-- On transfer of the land under this section to the State of South Dakota, jurisdiction over the land shall be the same as that over other land owned by the State of South Dakota.

(B) Land between the Missouri River water's edge and the level of the exclusive flood pool.-- Jurisdiction over land between the Missouri River water's edge and the level of the exclusive flood pool outside Indian reservations in the State of South Dakota shall

be the same as that exercised by the State on other land owned by the State, and that jurisdiction shall follow the fluctuations of the water's edge.

(C) Federal land.-- Jurisdiction over land and water owned by the Federal Government within the boundaries of the State of South Dakota that are not affected by this title shall remain unchanged.

(3) Easements and access.-- The Secretary shall provide the State of South Dakota with easements and access on land and water below the level of the exclusive flood pool outside Indian reservations in the State of South Dakota for recreational and other purposes (including for boat docks, boat ramps, and related structures), so long as the easements would not prevent the Corps of Engineers from carrying out its mission under the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 887).

(h) Applicability of Law.-- Notwithstanding any other provision of this Act, the following provisions of law shall apply to land transferred under this section:

(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.), including sections 106 and 304 of that Act (16 U.S.C. 470f, 470w-3).

(2) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), including sections 4, 6, 7, and 9 of that Act (16 U.S.C. 470cc, 470ee, 470ff, 470hh).

(3) The Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.), including subsections (a) and (d) of section 3 of that Act (25 U.S.C. 3003).

(i) Impact Aid.-- The land transferred under subsection (a) shall be deemed to continue to be owned by the United States for purposes of section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702).

* * * * *

**Sec. 607. [Administration.]--**

(a) In General.--Nothing in this title diminishes or affects--

(1) any water right of an Indian Tribe;

(2) any other right of an Indian Tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian Tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including--

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (commonly known as the “Clean Water Act") (33 U.S.C. 1251 et seq.);
(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and
(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Federal Liability for Damage.-- Nothing in this title relieve the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan Missouri River Basin program.

(c) Flood Control.--Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan Missouri River Basin program for purposes of meeting the requirements of the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.).

**Sec. 608. [Study.]--**

(a) In General.--The Secretary shall arrange for the United States Geological Survey, in consultation with the Bureau of Indian Affairs and other appropriate Federal agencies, to complete, not later than October 31, 1999, a comprehensive study of the potential impacts of the transfer of land under sections 605(b) and 606(b), including potential impacts on South Dakota Sioux Tribes having water claims within the Missouri River Basin, on water flows in the Missouri River.

(b) No Transfer Pending Determination.-- No transfer of land under section 605(b) or 606(b) shall occur until the Secretary determines, based on the study, that the transfer of land under either section will not significantly reduce the amount of water flow to the downstream States of the Missouri River.

(c) State Water Rights.-- The results of the study shall not affect, and shall not be taken into consideration in, any proceeding to quantify the water rights of any State.

(d) Indian Water Rights.-- The results of the study shall not affect, and shall not be taken into consideration in, any proceeding to quantify the water rights of any Indian Tribe or tribal nation.

**Sec. 609. [Authorization of Appropriations.]--**

(a) Secretary.-- There are authorized to be appropriated to the Secretary such sums as are necessary--

(1) to pay the administrative expenses incurred by the Secretary in carrying out this title;
(2) to fund the implementation of terrestrial wildlife habitat restoration plans under section 602(a) and other activities under sections 603(d)(3) and 604(d)(3); and
(3) to fund the annual expenses (not to exceed the Federal cost as of the date of enactment of this Act) of operating recreation areas to be transferred under sections 605(c) and 606(c) or leased by the State of South Dakota or Indian Tribes, until such time as the trust funds under sections 603 and 604 are fully capitalized.

(b) Secretary of the Interior.-- There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to pay the administrative expenses incurred by the Secretary of the Interior in carrying out this title.

Approved August 17, 1999.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 507 (H.R. 1480):
HOUSE REPORT: No. 106-106, Comm. On Transportation and Infrastructure, April 26, 1999.
SENATE REPORT: No. 106-34, Comm. on Environment and Public Works, March 23, 1999.

HOUSE REPORT: No.106-298, Comm. On Conference, Aug. 5, 1999.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, April 14, 1999
Cost Estimate, Aug. 20, 1999.
CONGRESSIONAL RECORD, Vol. 145 (1999):
Apr. 19, considered and passed Senate, Pg. S3874-87.
July 22, considered and passed House, amended, in lieu of H.R. 1480, Pg. H6302-45.
Aug. 5, House agreed to conference report (Pt. 1), Pg. H7276-316.
Aug. 5 House agreed to conference report (Pt. 2), Pg. S10286-90.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999):
Aug. 17, Presidential statement.

September 9, 1999

## ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2000

**[Extracts from]** An act making appropriations for energy and water development for the fiscal year ending September 20, 2000, and for other purposes. (Act of September 9, 1999, Public Law 106-60, 113 Stat. 483)

**TITLE II: Department of the Interior**
**Central Utah Project**
**Central Utah Project Completion Account--** For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, $38,049,000, to remain available until expended, of which $15,476,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: Provided, That of the amounts deposited into that account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and $10,476,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,321,000, to remain available until expended.
**Bureau of Reclamation--** The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:
**Water and Related Resources (including transfer of funds)--** For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $607,927,000, to remain available until expended, of which $2,247,000 shall be available for transfer to the Upper Colorado River Basin Fund and $24,089,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund:

Provided, That such transfers may be increased or decreased within the overall appropriation under this heading:

Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading:

Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis:

Provided further, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended by Public Law 104-206, is amended further by inserting "1999, and 2000" in lieu of "and 1997":

Provided further, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89-108, as amended by section 8 of Public Law 99-294, section 1701(b) of Public Law 102-575, and Public Law 105-245, is increased by $1,000,000 (October 1998 prices).

**Bureau of Reclamation Loan Program Account--** For the cost of direct loans and/or grants, $12,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422l):

Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended:

Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $43,000,000. In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000, to remain available until expended:

Provided, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

**Central Valley Project Restoration Fund--** For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $42,000,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended:

Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

**California Bay-Delta Restoration** (including transfer of funds)-- For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out ecosystem restoration activities pursuant to the California Bay-Delta Environmental Enhancement Act and other activities that are in accord with the CALFED Bay-Delta Program, including projects to improve water use efficiency, water quality, groundwater and surface storage, levees, conveyance, and watershed management, consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, $60,000,000, to remain available until expended, of which $30,000,000 shall be used for ecosystem restoration activities and $30,000,000 shall be used for such other activities, and of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies:

Provided, That no more than $5,000,000 of the funds appropriated herein may be used for planning and management activities associated with developing the overall CALFED Bay-Delta Program and coordinating its staged implementation:

Provided further, That funds for ecosystem restoration activities may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 1101(d) of such Act, and that funds for such other activities may be obligated only as non-Federal sources provide their share in a manner consistent with such cost-sharing agreement:

Provided further, That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 CFR 1506.1(c); and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

* * * * *

Approved September 29, 1999

**Explanatory Remarks**

**LEGISLATIVE HISTORY**—H.R. 2605 (S. 1186):
SENATE REPORT: No. 106-58 accompanying S. 1186, Comm. on Appropriations, June 2, 1999.
HOUSE REPORT: No. 106-253, Comm. on Appropriations, July 23, 1999.
HOUSE REPORT: No. 106-336, Comm. of Conference, Sept. 27, 1999.
CONGRESSIONAL RECORD, Vol. 145 (1999):
July 27 considered and passed House.
July 28, considered and passed Senate, amended, in lieu of S. 1186.
Sept. 27, House agreed to conference report, Pg. H8677-85.
Sept. 28, Senate agreed to conference report, S. 11531-8.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999): Presidential Statement

December 7, 1999

# PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1999

An act to authorize the Secretary of the Interior to provide assistance to the Perkins County Rural Water System, Inc., for the construction of water supply facilities in Perkins County, South Dakota. (Act of December 7, 1999, Public Law 106-136, 113 Stat. 1688)

**[Section 1. Short Title.]--** This Act may be cited as the "Perkins County Rural Water System Act of 1999".

**Sec. 2. [Findings.]-- The Congress finds that**—

(1) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(2) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation; and

(3) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project.

**Sec. 3. [Definitions.]-- In this Act**:

(1) Corporation.-- The term "Corporation" means the Perkins County Rural Water System, Inc., a nonprofit corporation established and operated under the laws of the State of South Dakota substantially in accordance with the feasibility study.

(2) Feasibility study.-- The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(3) Project construction budget.-- The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(4) Pumping and incidental operational requirements.-- The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of the water supply system by the Corporation.

(5) Secretary.-- The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(6) Water supply system.-- The term "water supply system" means intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines operated by the Perkins County Rural Water System, Inc., to the point of delivery of water to each entity that distributes water at retail to individual users.

**Sec. 4. [Federal Assistance for Water Supply System.]—**

(a) In General.--The Secretary shall make grants to the Corporation for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) Limitation on Availability of Construction Funds.-- The Secretary shall not obligate funds for the construction of the water supply system until--

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and
(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

**Sec. 5. [Mitigation of Fish and Wildlife Losses**.]-- Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

**Sec. 6. [Use of Pick-Sloan Power.]--** For operation during the period beginning May 1 and ending October 31 of each year, portions of the water supply system constructed with assistance under this Act shall be eligible to utilize power from the Pick-Sloan Missouri Basin Program established by section 9 of the Act of December 22, 1944 (chapter 665; 58 Stat. 887), popularly known as the Flood Control Act of 1944.

**Sec. 7. [Federal Share**.]-- **The Federal share under section 4 shall be 75 percent of—**

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and
(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

**Sec. 8. [Non-Federal Share.]-- The Non-Federal share under section 4 shall be 25 percent of**—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and
(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

**Sec. 9. [Construction Oversight**.]—

(a) **Authorization.--** At the request of the Corporation, the Secretary may provide to the Corporation assistance in overseeing matters relating to construction of the water supply system.

(b) **Project Oversight Administration**.--The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

**Sec. 10. [Authorization of Appropriations.]-- There are authorized to be appropriated to the Secretary**—

(1) $15,000,000 for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

Approved December 7, 1999

**Explanatory Remarks**

**LEGISLATIVE HISTORY** – H.R. 970:
HOUSE REPORTS: No. 106-405, Comm. on Resources, Oct. 20, 1999.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House Bill, Aug. 5, 1999.
CONGRESSIONAL RECORD, Vol. 145 (1999):

March 3, Sponsor Remarks, Pg. E328.
Oct. 26, considered and passed House, Pg. H10789.
Nov. 19, considered and passed Senate, Pg. S15158.

December 7, 1999

## AMENDMENT TO THE CENTRAL UTAL PROJECT COMPLETION ACT

An act to amend the Central Utah Project Completion Act to provide for acquisition of water and water rights for Central Utah Project purposes, completion of Central Utah project facilities, and implementation of water conservation measures. (Act of December 7, 1999, Public Law 106-140, 113 Stat. 1698)

**[Section 1. Amendment to the Central Utah Project Completion Act.]--** The first sentence of section 202(c) of the Central Utah Project Completion Act (Public Law 102-575; 106 Stat. 4611) is amended to read as follows: "The Secretary is authorized to utilize any unexpended budget authority provided in this title up to $60,000,000 and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, to acquire water and water rights for project purposes including instream flows, to complete project facilities authorized in this title and title III, to implement water conservation measures, and for the engineering, design, and construction of Hatchtown Dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown Dam.".

Approved December 7, 1999

### Explanatory Remarks

**LEGISLATIVE HISTORY--** H.R. 2889.
HOUSE REPORT, No. 106-417, Comm. on Resources, October 27, 1999
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Oct. 26, 1999.
CONGRESSIONAL RECORD, Vol. 145 (1999):
Nov. 1, considered and passed House, Pg. H11153.
Nov. 19, considered and passed Senate, Pg. S15158.

December 9, 1999

# CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION INDIAN RESERVED WATER RIGHTS SETTLEMENT AND WATER SUPPLY ENHANCEMENT ACT OF 1999

An act to provide for the settlement of the water rights claims of the Chippwa Cree Tribe of the Rocky Boy's Reservation, and for other purposes. (Act of December 9, 1999, Public Law 106-163, 113 Stat. 1779)

**[Section 1. Short Title.]--** This Act may be cited as the "Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999".

**Sec. 2. [Findings.]-- Congress finds that**—

(1) in fulfillment of its trust responsibility to Indian tribes and to promote tribal sovereignty and economic self-sufficiency, it is the policy of the United States to settle the water rights claims of the tribes without lengthy and costly litigation;

(2) the Rocky Boy's Reservation was established as a homeland for the Chippewa Cree Tribe;

(3) adequate water for the Chippewa Cree Tribe of the Rocky Boy's Reservation is important to a permanent, sustainable, and sovereign homeland for the Tribe and its members;

(4) the sovereignty of the Chippewa Cree Tribe and the economy of the Reservation depend on the development of the water resources of the Reservation;

(5) the planning, design, and construction of the facilities needed to utilize water supplies effectively are necessary to the development of a viable Reservation economy and to implementation of the Chippewa Cree-Montana Water Rights Compact;

(6) the Rocky Boy's Reservation is located in a water-short area of Montana and it is appropriate that the Act provide funding for the development of additional water supplies, including domestic water, to meet the needs of the Chippewa Cree Tribe;

(7) proceedings to determine the full extent of the water rights of the Chippewa Cree Tribe are currently pending before the Montana Water Court as a part of In the Matter of the Adjudication of All Rights to the Use of Water, Both Surface and Underground, within the State of Montana;

(8) recognizing that final resolution of the general stream adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Chippewa Cree Tribe and the State of Montana entered into the Compact on April 14, 1997; and

(9) the allocation of water resources from the Tiber Reservoir to the Chippewa Cree Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

**Sec. 3. [Purposes.]-- The purposes of this Act** are as follows:

(1) To achieve a fair, equitable, and final settlement of all claims to water rights in the State of Montana for—

(A) the Chippewa Cree Tribe; and

(B) the United States for the benefit of the Chippewa Cree Tribe.

(2) To approve, ratify, and confirm, as modified in this Act, the Chippewa Cree-Montana Water Rights Compact entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, and to provide funding and other authorization necessary for the implementation of the Compact.

(3) To authorize the Secretary of the Interior to execute and implement the Compact referred to in paragraph (2) and to take such other actions as are necessary to implement the Compact in a manner consistent with this Act.
(4) To authorize Federal feasibility studies designed to identify and analyze potential mechanisms to enhance, through conservation or otherwise, water supplies in North Central Montana, including mechanisms to import domestic water supplies for the future growth of the Rocky Boy's Indian Reservation.
(5) To authorize certain projects on the Rocky Boy's Indian Reservation, Montana, in order to implement the Compact.
(6) To authorize certain modifications to the purposes and operation of the Bureau of Reclamation's Tiber Dam and Lake Elwell on the Marias River in Montana in order to provide the Tribe with an allocation of water from Tiber Reservoir.
(7) To authorize the appropriation of funds necessary for the implementation of the Compact.
**Sec 4. [Definitions.]**-- In this Act:
(1) Act.-- The term “Act" means the “Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999".
(2) Compact.-- The term “Compact" means the water rights compact between the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana contained in section 85-20-601 of the Montana Code Annotated (1997).
(3) Final.-- The term “final" with reference to approval of the decree in section 101(b) means completion of any direct appeal to the Montana Supreme Court of a final decree by the Water Court pursuant to section 85-2-235 of the Montana Code Annotated (1997), or to the Federal Court of Appeals, including the expiration of the time in which a petition for certiorari may be filed in the United States Supreme Court, denial of such a petition, or the issuance of the Supreme Court's mandate, whichever occurs last.
(4) Fund.-- The term “Fund" means the Chippewa Cree Indian Reserved Water Rights Settlement Fund established under section 104.
(5) Indian tribe.-- The term “Indian tribe" has the meaning given that term in section 101(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2)).
(6) MR&I feasibility study.-- The term “MR&I feasibility study" means a municipal, rural, and industrial, domestic, and incidental drought relief feasibility study described in section 202.
(7) Missouri river system.-- The term “Missouri River System" means the mainstem of the Missouri River and its tributaries, including the Marias River.
(8) Reclamation law.-- The term “Reclamation Law" has the meaning given the term “reclamation law" in section 4 of the Act of December 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).
(9) Rocky boy's reservation; reservation.-- The term “Rocky Boy's Reservation" or “Reservation" means the Rocky Boy's Reservation of the Chippewa Cree Tribe in Montana.
(10) Secretary.-- The term “Secretary" means the Secretary of the Interior, or his or her duly authorized representative.
(11) Towe ponds.-- The term “Towe Ponds" means the reservoir or reservoirs referred to as “Stoneman Reservoir" in the Compact.
(12) Tribal compact administration.--The term “Tribal Compact Administration" means the activities assumed by the Tribe for implementation of the Compact as set forth in Article IV of the Compact.

(13) Tribal water code.-- The term “tribal water code" means a water code adopted by the Tribe, as provided in the Compact.
(14) Tribal water right.—

(A) In general.-- The term “Tribal Water Right" means the water right set forth in section 85-20-601 of the Montana Code Annotated (1997) and includes the water allocation set forth in title II of this Act.

(B) Rule of construction.-- The definition of the term “Tribal Water Right" under this paragraph and the treatment of that right under this Act shall not be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future compacts between the United States and the State of Montana or any other State.

(15) Tribe.-- The term “Tribe" means the Chippewa Cree Tribe of the Rocky Boy's Reservation and all officers, agents, and departments thereof.
(16) Water development.-- The term “water development" includes all activities that involve the use of water or modification of water courses or water bodies in any way.
**Sec. 5. [Miscellaneous Provisions.]--** (a) Nonexercise of Tribe's Rights.-- Pursuant to Tribal Resolution No. 40-98, and in exchange for benefits under this Act, the Tribe shall not exercise the rights set forth in Article VII.A.3 of the Compact, except that in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the Tribe shall have the right to exercise the rights set forth in Article VII.A.3 of the Compact.
(b) Waiver of Sovereign Immunity.--Except to the extent provided in subsections (a), (b), and (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this Act may be construed to waive the sovereign immunity of the United States.
(c) Tribal Release of Claims Against the United States.—

(1) In General.--Pursuant to Tribal Resolution No. 40-98, and in exchange for benefits under this Act, the Tribe shall, on the date of enactment of this Act, execute a waiver and release of the claims described in paragraph (2) against the United States, the validity of which are not recognized by the United States, except that— (A) the waiver and release of claims shall not become effective until the appropriation of the
funds authorized in section 105, the water allocation in section 201, and the appropriation of funds for the MR&I feasibility study authorized in section 204 have
been completed and the decree has become final in accordance with the requirements of section 101(b); and (B) in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the waiver and release of claims shall become null and void.

(2) Claims described.-- The claims referred to in paragraph (1) are as follows:

(A) Any and all claims to water rights (including water rights in surface water, ground water, and effluent), claims for injuries to water rights, claims for loss or deprivation of use of water rights, and claims for failure to acquire or develop water rights for lands of the Tribe from time immemorial to the date of ratification of the Compact by Congress.

(B) Any and all claims arising out of the negotiation of the Compact and the settlement authorized by this Act.

(3) Setoffs.-- In the event the waiver and release do not become effective as set forth in paragraph (1)—

(A) the United States shall be entitled to set-off against any claim for damages asserted by the Tribe against the United States, any funds transferred to the Tribe pursuant to section 104, and any interest accrued thereon up to the date of setoff; and
(B) the United States shall retain any other claims or defenses not waived in this Act or in the Compact as modified by this Act.

(d) Other Tribes Not Adversely Affected.-- Nothing in this Act shall be construed to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water of an Indian tribe other than the Chippewa Cree Tribe.

(e) Environmental Compliance.-- In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(f) Execution of Compact.-- The execution of the Compact by the Secretary as provided for in this Act shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Compact.

(g) Congressional Intent.-- Nothing in this Act shall be construed to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

(h) Act not Precedential.-- Nothing in this Act shall be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future water settlement Acts.

**TITLE I--CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION INDIAN RESERVED WATER RIGHTS SETTLEMENT**

**Sec. 101. [Ratification of Compact and Entry of Decree]—**

(a)Water Rights Compact Approved.-- Except as modified by this Act, and to the extent the Compact does not conflict with this Act—

(1) the Compact, entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, is hereby approved, ratified, and confirmed; and

(2) the Secretary shall-

(A) execute and implement the Compact together with any amendments agreed to by the parties or necessary to bring the Compact into conformity with this Act; and
(B) take such other actions as are necessary to implement the Compact.

(b) Approval of Decree.—

(1) In general.--Not later than 180 days after the date of enactment of this Act, the United States, the Tribe, or the State of Montana shall petition the Montana Water Court, individually or jointly, to enter and approve the decree agreed to by the United States, the Tribe, and the State of Montana attached as Appendix 1 to the Compact, or any amended version thereof agreed to by the United States, the Tribe, and the State of Montana.

(2) Resort to the federal district court.--Under the circumstances set forth in Article VII.B.4 of the Compact, 1 or more parties may file an appropriate motion (as provided in that article) in the United States district court of appropriate jurisdiction.

(3) Effect of failure of approval to become final.--In the event the approval by the appropriate court, including any direct appeal, does not become final within 3 years after the filing of the decree, or the decree is approved but is subsequently set aside by the appropriate court—

(A) the approval, ratification, and confirmation of the Compact by the United States shall be null and void; and

(B) except as provided in subsections (a) and (c)(3) of section 5 and section 105(e)(1), this Act shall be of no further force and effect.

**Sec. 102. [Use and Transfer of the Tribal Water Right.]--**

(a) Administration and Enforcement.--As provided in the Compact, until the adoption and approval of a tribal water code by the Tribe, the Secretary shall administer and enforce the Tribal Water Right.

(b) Tribal Member Entitlement.—

(1) In general.-- Any entitlement to Federal Indian reserved later of any tribal member shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions of the Compact.

(2) Administration.-- An entitlement described in paragraph (1) shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article IV.A.2 of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) Temporary Transfer of Tribal Water Right.--The Tribe may, with the approval of the Secretary and the approval of the State of Montana pursuant to Article IV.A.4 of the Compact, transfer any portion of the Tribal Water Right for use off the Reservation by service contract, lease, exchange, or other agreement. No service contract, lease, exchange, or other agreement entered into under this subsection may permanently alienate any portion of the Tribal Water Right. The enactment of this subsection shall constitute a plenary exercise of the powers set forth in Article I, section 8(3) of the United States Constitution and is statutory law of the United States within the meaning of Article IV.A.4.b.(3) of the Compact.

**Sec. 103. [On-Reservation Water Resources Development**.]--

(a) Water Development Projects.--The Secretary, acting through the Bureau of Reclamation, is authorized and directed to plan, design, and construct, or to provide, pursuant to subsection (b), for the planning, design, and construction of the following water development projects on the Rocky Boy's Reservation:

(1) Bonneau Dam and Reservoir Enlargement.

(2) East Fork of Beaver Creek Dam Repair and Enlargement.

(3) Brown's Dam Enlargement.

(4) Towe Ponds Enlargement.

(5) Such other water development projects as the Tribe shall from time to time consider appropriate.

(b) Implementation Agreement.--The Secretary, at the request of the Tribe, shall enter into an agreement, or, if appropriate, renegotiate an existing agreement, with the Tribe to implement the provisions of this Act through the Tribe's annual funding agreement entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) by which the Tribe shall plan, design, and construct any or all of the projects authorized by this section.

(c) Bureau of Reclamation Project Administration.—

(1) In general.--Congress finds that the Secretary, through the Bureau of Reclamation, has entered into an agreement with the Tribe, pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.)--

(A) defining and limiting the role of the Bureau of Reclamation in its administration of the projects authorized in subsection (a);
(B) establishing the standards upon which the projects will be constructed; and
(C) for other purposes necessary to implement this section.

(2) Agreement.--The agreement referred to in paragraph (1) shall become effective when the Tribe exercises its right under subsection (b).

**Sec. 104. [Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund.]--**

(a) Establishment of Trust Fund.—

(1) In general.—

(A) Establishment.-- There is hereby established in the Treasury of the United States a trust fund for the Chippewa Cree Tribe of the Rocky Boy's Reservation to be known as the “Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund".

(B) Availability of amounts in fund.—

(i) In general.--Amounts in the Fund shall be available to the Secretary for management and investment on behalf of the Tribe and distribution to the Tribe in accordance with this Act.

(ii) Availability.--Funds made available from the Fund under this section shall be available without fiscal year limitation.

(2) Management of fund.-- The Secretary shall deposit and manage the principal and interest in the Fund in a manner consistent with subsection (b) and other applicable provisions of this Act.

(3) Contents of fund.-- The Fund shall consist of the amounts authorized to be appropriated to the Fund under section 105(a) and such other amounts as may be transferred or credited to the Fund.

(4) Withdrawal.-- The Tribe, with the approval of the Secretary, may withdraw the Fund and deposit it in a mutually agreed upon private financial institution. That withdrawal shall be made pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(5) Accounts.-- The Secretary of the Interior shall establish the following accounts in the Fund and shall allocate appropriations to the various accounts as required in this Act:

(A) The Tribal Compact Administration Account.

(B) The Economic Development Account.

(C) The Future Water Supply Facilities Account.

(b) Fund Management.--

(1) In general.—

(A) Amounts in fund.-- The Fund shall consist of such amounts as are appropriated to the Fund and allocated to the accounts of the Fund by the Secretary as provided for in this Act and in accordance with the authorizations for appropriations in paragraphs (1), (2), and (3) of section 105(a), together with all interest that accrues in the Fund.

(B) Management by secretary.-- The Secretary shall manage the Fund, make investments from the Fund, and make available funds from the Fund for distribution to the Tribe in a manner consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) Tribal management.—

(A) In general.--If the Tribe exercises its right pursuant to subsection (a)(4) to withdraw the Fund and deposit it in a private financial institution, except as provided in the withdrawal plan, neither the Secretary nor the Secretary of the Treasury shall retain any oversight over or liability for the accounting, disbursement, or investment of the funds.

(B) Withdrawal plan.-- The withdrawal plan referred to in subparagraph (A) shall provide for—

(i) the creation of accounts and allocation to accounts in a fund established under the plan in a manner consistent with subsection (a); and

(ii) the appropriate terms and conditions, if any, on expenditures from the fund (in addition to the requirements of the plans set forth in paragraphs (2) and (3) of subsection (c)).

(c) Use of Fund.--The Tribe shall use the Fund to fulfill the purposes of this Act, subject to the following restrictions on expenditures:

(1) Except for $400,000 necessary for capital expenditures in connection with Tribal Compact Administration, only interest accrued on the Tribal Compact Administration Account referred to in subsection (a)(5)(A) shall be available to satisfy the Tribe's obligations for Tribal Compact Administration under the provisions of the Compact.

(2) Both principal and accrued interest on the Economic Development Account referred to in subsection (a)(5)(B) shall be available to the Tribe for expenditure pursuant to an economic development plan approved by the Secretary.

(3) Both principal and accrued interest on the Future Water Supply Facilities Account referred to in subsection (a)(5)(C) shall be available to the Tribe for expenditure pursuant to a water supply plan approved by the Secretary.

(d) Investment of Fund.--

(1) In general.—

(A) Applicable laws.--The Secretary shall invest amounts in the Fund in accordance with—

(i) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(ii) the first section of the Act entitled “An Act to authorize the payment of interest of certain funds held in trust by the United States for Indian tribes", approved February 12, 1929, (25 U.S.C. 161a); and

(iii) the first section of the Act entitled “An Act to authorize the deposit and investment of Indian funds", approved June 24, 1938 (25 U.S.C.162a).

(B) Crediting of amounts to the fund.-- The interest on, and the proceeds from the sale or redemption of, any obligations of the United States held in the Fund shall be credited to and form part of the Fund. The Secretary of the Treasury shall credit to each of the accounts contained in the Fund a proportionate amount of that interest and proceeds.

(2) Certain withdrawn funds.—

(A) In general.-- Amounts withdrawn from the Fund and deposited in a private financial institution pursuant to a withdrawal plan approved by the Secretary under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) shall be invested by an appropriate official under that plan.

(B) Deposit of interest and proceeds.--The interest on, and the proceeds from the sale or redemption of, any obligations held under this paragraph shall be deposited in the

private financial institution referred to in subparagraph (A) in the fund established pursuant to the withdrawal plan referred to in that subparagraph. The appropriate official shall credit to each of the accounts contained in that fund a proportionate amount of that interest and proceeds.

(e) Agreement Regarding Fund Expenditures.-- If the Tribe does not exercise its right under subsection (a)(4) to withdraw the funds in the Fund and transfer those funds to a private financial institution, the Secretary shall enter into an agreement with the Tribe providing for appropriate terms and conditions, if any, on expenditures from the Fund in addition to the plans set forth in paragraphs (2) and (3) of subsection (c).

(f) Per Capita Distributions Prohibited.-- No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

**Sec. 105. [Authorization of Appropriations.]--**

(a) Chippewa Cree Fund.--There is authorized to be appropriated for the Fund, $21,000,000 to be allocated by the Secretary as follows:

(1) Tribal compact administration account.-- For Tribal Compact Administration assumed by the Tribe under the Compact and this Act, $3,000,000 is authorized to be appropriated for fiscal year 2000.

(2) Economic development account.-- For tribal economic development, $3,000,000 is authorized to be appropriated for fiscal year 2000.

(3) Future water supply facilities account.-- For the total Federal contribution to the planning, design, construction, operation, maintenance, and rehabilitation of a future water supply system for the Reservation, there are authorized to be appropriated-- (A) $2,000,000 for fiscal year 2000; (B) $8,000,000 for fiscal year 2001; and (C) $5,000,000 for fiscal year 2002.

(b) On-Reservation Water Development.—

(1) In general.-- There are authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the construction of the on-Reservation water development projects authorized by section 103—

(A) $13,000,000 for fiscal year 2000, for the planning, design, and construction of the Bonneau Dam Enlargement, for the development of additional capacity in

(B) $8,000,000 for fiscal year 2001, for the planning, design, and construction of the Bonneau Reservoir for storage of water secured to the Tribe under the Compact; East Fork Dam and Reservoir enlargement, of the Brown's Dam and Reservoir enlargement, and of the Towe Ponds enlargement of which—

(i) $4,000,000 shall be used for the East Fork Dam and Reservoir enlargement;

(ii) $2,000,000 shall be used for the Brown's Dam and Reservoir enlargement; and

(iii) $2,000,000 shall be used for the Towe Ponds enlargement; and

(C) $3,000,000 for fiscal year 2002, for the planning, design, and construction of such other water resource developments as the Tribe, with the approval of the Secretary, from time to time may consider appropriate or for the completion of the 4 projects enumerated in subparagraphs (A) and (B) of paragraph (1).

(2) Unexpended balances.-- Any unexpended balance in the funds authorized to be appropriated under subparagraph (A) or (B) of paragraph (1), after substantial completion of all of the projects enumerated in paragraphs (1) through (4) of section 103(a)—

(A) shall be available to the Tribe first for completion of the enumerated projects; and

(B) then for other water resource development projects on the Reservation.

(c) Administration Costs.-- There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, $1,000,000 for fiscal year 2000, for the costs of administration of the Bureau of Reclamation under this Act, except that—

(1) if those costs exceed $1,000,000, the Bureau of Reclamation may use funds authorized for appropriation under subsection (b) for costs; and

(2) the Bureau of Reclamation shall exercise its best efforts to minimize those costs to avoid expenditures for the costs of administration under this Act that exceed a total of $1,000,000.

(d) Availability of Funds.—

(1) In general.-- The amounts authorized to be appropriated to the Fund and allocated to its accounts pursuant to subsection (a) shall be deposited into the Fund and allocated immediately on appropriation.

(2) Investments.-- Investments may be made from the Fund pursuant to section 104(d).

(3) Availability of certain moneys.-- The amounts authorized to be appropriated in subsection (a)(1) shall be available for use immediately upon appropriation in accordance with subsection 104(c)(1).

(4) Limitation.-- Those moneys allocated by the Secretary to accounts in the Fund or in a fund established under section 104(a)(4) shall draw interest consistent with section 104(d), but the moneys authorized to be appropriated under subsection (b) and paragraphs (2) and (3) of subsection (a) shall not be available for expenditure until the requirements of section 101(b) have been met so that the decree has become final and the Tribe has executed the waiver and release required under section 5(c).

(e) Return of Funds to the Treasury.--

(1) In general.-- In the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), all unexpended funds appropriated under the authority of this Act together with all interest earned on such funds, notwithstanding whether the funds are held by the Tribe, a private institution, or the Secretary, shall revert to the general fund of the Treasury 12 months after the expiration of the deadline established in section 101(b).

(2) Inclusion in agreements and plan.--The requirements in paragraph (1) shall be included in all annual funding agreements entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), withdrawal plans, withdrawal agreements, or any other agreements for withdrawal or transfer of the funds to the Tribe or a private financial institution under this Act.

(f) Without Fiscal Year Limitation.--All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

**Sec. 106. [State Contributions to Settlement.]**-- Consistent with Articles VI.C.2 and C.3 of the Compact, the State contribution to settlement shall be as follows:

(1) The contribution of $150,000 appropriated by Montana House Bill 6 of the 55th Legislative Session (1997) shall be used for the following purposes:

(A) Water quality discharge monitoring wells and monitoring program.

(B) A diversion structure on Big Sandy Creek.

(C) A conveyance structure on Box Elder Creek.

(D) The purchase of contract water from Lower Beaver Creek Reservoir.

(2) Subject to the availability of funds, the State shall provide services valued at $400,000 for administration required by the Compact and for water quality sampling required by the Compact.

**TITLE II—Tiber Reservoir Allocation and Feasibility Studies Authorization.**

**Sec 201. [Tiber Reservoir.]--**

(a) Allocation of Water to the Tribe.—

(1) In general.-- The Secretary shall permanently allocate to the Tribe, without cost to the Tribe, 10,000 acre-feet per year of stored water from the water right of the Bureau of Reclamation in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the reservoir. The allocation shall become effective when the decree referred to in section 101(b) has become final in accordance with that section. The allocation shall be part of the Tribal Water Right and subject to the terms of this Act.

(2) Agreement.-- The Secretary shall enter into an agreement with the Tribe setting forth the terms of the allocation and providing for the Tribe's use or temporary transfer of water stored in Lake Elwell, subject to the terms and conditions of the Compact and this Act.

(3) Prior reserved water rights.-- The allocation provided in this section shall be subject to the prior reserved water rights, if any, of any Indian tribe, or person claiming water through any Indian tribe.

(b) Use and Temporary Transfer of Allocation.--

(1) In general.-- Subject to the limitations and conditions set forth in the Compact and this Act, the Tribe shall have the right to devote the water allocated by this section to any use, including agricultural, municipal, commercial, industrial, mining, or recreational uses, within or outside the Rocky Boy's Reservation.

(2) Contracts and agreements.--Notwithstanding any other provision of statutory or common law, the Tribe may, with the approval of the Secretary and subject to the limitations and conditions set forth in the Compact, enter into a service contract, lease, exchange, or other agreement providing for the temporary delivery, use, or transfer of the water allocated by this section, except that no such service contract, lease, exchange, or other agreement may permanently alienate any portion of the tribal allocation.

(c) Remaining Storage.-- The United States shall retain the right to use for any authorized purpose, any and all storage remaining in Lake Elwell after the allocation made to the Tribe in subsection (a).

(d) Water Transport Obligation; Development and Delivery Costs.-- The United States shall have no responsibility or obligation to provide any facility for the transport of the water allocated by this section to the Rocky Boy's Reservation or to any other location. Except for the contribution set forth in section 105(a)(3), the cost of developing and delivering the water allocated by this title or any other supplemental water to the Rocky Boy's Reservation shall not be borne by the United States.

(e) Section not Precedential.-- The provisions of this section regarding the allocation of water resources from the Tiber Reservoir to the Tribe shall not be construed as precedent in the litigation or settlement of any other Indian water right claims.

**Sec. 202. [Municipal, Rural, and Industrial Feasibility Study.]--**

(a) Authorization.—

(1) In general.—

(A) Study.--The Secretary, acting through the Bureau of Reclamation, shall perform an MR&I feasibility study of water and related resources in North Central Montana to evaluate alternatives for a municipal, rural, and industrial supply for the Rocky Boy's Reservation.

(B) Use of funds made available for fiscal year 1999.--The authority under subparagraph (A) shall be deemed to apply to MR&I feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(2) Contents of study.-- The MR&I feasibility study shall include the feasibility of releasing the Tribe's Tiber allocation as provided for in section 201 into the Missouri River System for later diversion to a treatment and delivery system for the Rocky Boy's Reservation.

(3) Utilization of existing studies.-- The MR&I feasibility study shall include utilization of existing Federal and non-Federal studies and shall be planned and conducted in consultation with other Federal agencies, the State of Montana, and the Chippewa Cree Tribe.

(b) Acceptance or Participation in Identified Off-Reservation System.-- The United States, the Chippewa Cree Tribe of the Rocky Boy's Reservation, and the State of Montana shall not be obligated to accept or participate in any potential off-Reservation water supply system identified in the MR&I feasibility study authorized in subsection (a).

**Sec. 203. [Regional Feasibility Study.]--**

(a) In General.--

(1) Study.--The Secretary, acting through the Bureau of Reclamation, shall conduct, pursuant to Reclamation Law, a regional feasibility study (referred to in this subsection as the “regional feasibility study") to evaluate water and related resources in North-Central Montana in order to determine the limitations of those resources and how those resources can best be managed and developed to serve the needs of the citizens of Montana.

(2) Use of funds made available for fiscal year 1999.-- The authority under paragraph (1) shall be deemed to apply to regional feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(b) Contents of Study.--The regional feasibility study shall—

(1) evaluate existing and potential water supplies, uses, and management;

(2) identify major water-related issues, including environmental, water supply, and economic issues;

(3) evaluate opportunities to resolve the issues referred to in paragraph (2); and (4) evaluate options for implementation of resolutions to the issues.

(c) Requirements.-- Because of the regional and international impact of the regional feasibility study, the study may not be segmented. The regional study shall--

(1) utilize, to the maximum extent possible, existing information; and

(2) be planned and conducted in consultation with all affected interests, including interests in Canada.

**Sec. 204. [Authorization of Appropriations for Feasibility Studies.]--**

(a) Fiscal Year 1999 Appropriations.-- Of the amounts made available by appropriations for fiscal year 1999 for the Bureau of Reclamation, $1,000,000 shall be used for the purpose of commencing the MR&I feasibility study under section 202 and the regional study under section 203, of which—

(1) $500,000 shall be used for the MR&I study under section 202; and
(2) $500,000 shall be used for the regional study under section 203.

(b) Feasibility Studies.-- There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the purpose of conducting the MR&I feasibility study under section 202 and the regional study under section 203, $3,000,000 for fiscal year 2000, of which—

(1) $500,000 shall be used for the MR&I feasibility study under section 202; and (2) $2,500,000 shall be used for the regional study under section 203.

(c) Without Fiscal Year Limitation.-- All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

(d) Availability of Certain Moneys.-- The amounts made available for use under subsection (a) shall be deemed to have been available for use as of the date on which those funds were appropriated. The amounts authorized to be appropriated in subsection (b) shall be available for use immediately upon appropriation.

Approved December 9, 1999

**Explanatory Remarks**

**LEGISLATIVE HISTORY**-- S. 438,
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; Senate Bill, Sept. 8, 1999.
Conf. Report, Nov. 23, 1999.
SENATE REPORT No. 106-200, Comm. on Indian Affairs, Oct. 26, 1999.
CONGRESSIONAL RECORD, Vol. 145 (1999):
Nov. 4, considered and passed Senate, S14031-36.
Nov. 18, considered and passed House, Pg. H12836-40.

July 10, 2000

## FEASIBILITY STUDY ON JICARILLA APACHE RESERVATION, NEW MEXICO

An act to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jiarilla Apache Reservation in the State of New Mexico, and for other purposes. (Act of July 10, 2000, Public Law 106-243, 114 Stat. 497)

**[Section 1. Findings.]-- Congress finds that--**
(1) there are major deficiencies with regard to adequate and sufficient water supplies available to residents of the Jicarilla Apache Reservation in the State of New Mexico;
(2) the existing municipal water system that serves the Jicarilla Apache Reservation is under the ownership and control of the Bureau of Indian Affairs and is outdated, dilapidated, and cannot adequately and safely serve the existing and future growth needs of the Jicarilla Apache Tribe;
(3) the federally owned municipal water system on the Jicarilla Apache Reservation has been unable to meet the minimum Federal water requirements necessary for discharging wastewater into a public watercourse and has been operating without a Federal discharge permit;
(4) the federally owned municipal water system that serves the Jicarilla Apache Reservation has been cited by the United States Environmental Protection Agency for violations of Federal safe drinking water standards and poses a threat to public health and safety both on and off the Jicarilla Apache Reservation;
(5) the lack of reliable supplies of potable water impedes economic development and has detrimental effects on the quality of life and economic self-sufficiency of the Jicarilla Apache Tribe;
(6) due to the severe health threats and impediments to economic development, the Jicarilla Apache Tribe has authorized and expended $4,500,000 of tribal funds for the repair and replacement of the municipal water system on the Jicarilla Apache Reservation; and
(7) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Jicarilla Apache Indian Reservation.

**Sec. 2. [Authorization.]--**
(a) Authorization.-- Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation and in consultation and cooperation with the Jicarilla Apache Tribe, shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Indian Reservation in the State of New Mexico.
(b) Report.--Not later than 1 year after funds are appropriated to carry out this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the feasibility study required by subsection (a).

**Sec. 3. [Authorization of Appropriations.]--** There are authorized to be appropriated $200,000 to carry out this Act.

Approved July 10, 2000

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3051:
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, senate Bill, June 20, 2000.

CONGRESSIONAL RECORD: Vol. 145 (1999): Nov. 17, considered and passed House., Pg. H12132.
CONGRESSIONAL RECORD: Vol. 146 (2000): June 28, considered and passed Senate, Pg. S6033.

August 18, 2000

# SHIVWITS BAND OF THE PAIUTE INDIAN TRIBE OF UTAH WATER RIGHTS SETTLEMENT ACT

An act to provide for the settlement of the water rights claims of the Shivwits Band of the Paiute Indian Tribe of Utah, and for other purposes. (Act of August 18, 2000, Public Law 106-263, 114 Stat. 737)

**[Section 1. Short Title.]--** This Act may be cited as the "Shivwits Band of the Paiute Indian Tribe of Utah Water Rights Settlement Act".

**Sec. 2. [Findings.]-- Congress finds** the following:

(1) It is the official policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle the water rights claims of Indian tribes to avoid lengthy and costly litigation.

(2) Any meaningful policy of Indian self-determination and economic self-sufficiency requires the development of viable Indian reservation economies.

(3) The quantification of water rights and the development of water use facilities is essential to the development of viable Indian reservation economies, particularly in the arid Western States.

(4) The Act of March 3, 1891, provided for the temporary support of the Shebit (or Shivwits) tribe of Indians in Washington County, Utah, and appropriated moneys for the purchase of improvements on lands along the Santa Clara River for the use of said Indians. Approximately 26,880 acres in the same area were set aside as a reservation for the Shivwits Band by Executive order dated April 21, 1916. Additional lands were added to the reservation by Congress on May 28, 1937.

(5) The waters of the Santa Clara River are fully appropriated except during high flow periods. A water right was awarded to the United States for the benefit of the Shivwits Band in the 1922 adjudication entitled *St. George Santa Clara Field Co., et al. v. Newcastle Reclamation Co., et a*l., for "1.38 cubic feet of water per second for the irrigation of 83.2 acres of land and for culinary, domestic, and stock watering purposes", but no provision has been made for water resource development to benefit the Shivwits Band. In general, the remainder of the Santa Clara River's flow is either diverted on the reservation and delivered through a canal devoted exclusively to non-Indian use that traverses the reservation to a reservoir owned by the Ivins Irrigation Company; dedicated to decreed and certificated rights of irrigation companies downstream of the reservation; or impounded in the Gunlock Reservoir upstream of the reservation. The Band's lack of access to water has frustrated its efforts to achieve meaningful self-determination and economic self-sufficiency.

(6) On July 21, 1980, the State of Utah, pursuant to title 73, chapter 4, Utah Code Ann., initiated a statutory adjudication of water rights in the Fifth Judicial District Court in Washington County, Utah, Civil No. 800507596, which encompasses all of the rights to the use of water, both surface and underground, within the drainage area of the Virgin River and its tributaries in Utah ("Virgin River Adjudication"), including the Santa Clara River Drainage ("Santa Clara System").

(7) The United States was joined as a party in the Virginia River Adjudication pursuant to section 666 of title 43, United States Code. On February 17, 1987, the United States filed a Statement of Water User Claim asserting a water right based on State law and a Federal reserved water rights claim for the benefit of the Shivwits Band to water from the Santa Clara River

System. This was the only claim the United States filed for any Indian tribe or band in the Virgin River Adjudication within the period allowed by title 73, chapter 4, Utah Code Ann., which bars the filing of claims after the time prescribed therein.
(8) The Virgin River adjudication will take many years to conclude, entail great expense, and prolong uncertainty as to the availability of water supplies, and thus, the parties have sought to settle their dispute over water and reduce the burdens of litigation.
(9) After lengthy negotiation, which included participation by representatives of the United States Government for the benefit of the Shivwits Band, the State of Utah, the Shivwits Band, the Washington County Water Conservancy District, the City of St. George, and others on the Santa Clara River System, the parties have entered into agreements to resolve all water rights claims between and among themselves and to quantify the water right entitlement of the Shivwits Band, and to provide for the construction of water projects to facilitate the settlement of these claims.
(10) Pursuant to the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement, the Shivwits Band will receive the right to a total of 4,000 acre-feet of water annually in settlement of its existing State law claims and Federal reserved water right claims.
(11) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Shivwits Band, it is appropriate that the United States participate in the implementation of the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement in accordance with this Act.
**Sec. 3. [Purposes.]-- The purposes of this Act** are--
(1) to achieve a fair, equitable, and final settlement of all claims to water rights in the Santa Clara River for the Shivwits Band, and the United States for the benefit of the Shivwits Band;
(2) to promote the self-determination and economic self-sufficiency of the Shivwits Band, in part by providing funds to the Shivwits Band for its use in developing a viable reservation economy;
(3) to approve, ratify, and confirm the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement, and the Shivwits Water Right described therein;
(4) to authorize the Secretary of the Interior to execute the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement, and to take such actions as are necessary to implement these agreements in a manner consistent with this Act; and
(5) to authorize the appropriation of funds necessary for implementation of the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement.
**Sec. 4. [Definitions.]--** In this Act:
(1) Secretary.-- The term “Secretary" means the Secretary of the Interior.
(2) Utah.-- The term “Utah" means the State of Utah, by and through its Department of Natural Resources.
(3) Shivwits band.-- The term “Shivwits Band" means the Shivwits Band of the Paiute Indian Tribe of Utah, a constituent band of the Paiute Indian Tribe of Utah, a federally recognized Indian tribe organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and the Act of April 3, 1980 (94 Stat. 317).
(4) Paiute Indian Tribe of Utah.-- The term “Paiute Indian Tribe of Utah" means the federally recognized Indian Tribe organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and the Act of April 3, 1980 (94 Stat. 317), comprised of

five bands of Southern Paiute Indians (Shivwits, Indian Peaks, Cedar, Koosharem, and Kanosh Bands).
(5) District.-- The term “District" means the Washington County Water Conservancy District, a Utah water conservancy district.
(6) St. George.-- The term “St. George" means St. George City, a Utah municipal corporation.
(7) Virgin river adjudication.-- The term “Virgin River Adjudication" means the statutory adjudication of water rights initiated pursuant to title 73, chapter 4, Utah Code Ann. and pending in the Fifth Judicial District Court in Washington County, Utah, Civil No. 800507596.
(8) St. George water reuse project agreement.-- The term “St. George Water Reuse Project Agreement" means the agreement among the United States for the benefit of the Shivwits Band, Utah, the Shivwits Band, and St. George City, together with all exhibits thereto, as the same is approved and executed by the Secretary of the Interior pursuant to section 8 of this Act.
(9) Santa Clara project agreement.-- The term “Santa Clara Project Agreement" means the agreement among the United States for the benefit of the Shivwits Band, Utah, the Shivwits Band, the Washington County Water Conservancy District, St. George City, the New Santa Clara Field Canal Company, the St. George Clara Field Canal Company, the Ivins Irrigation Company, the Southgate Irrigation Company, Bloomington Irrigation Company, Ed Bowler, and the Lower Gunlock Reservoir Company, together with all exhibits thereto, as the same is approved and executed by the Secretary of the Interior pursuant to section 8 of this Act.
(10) Settlement agreement.-- The term “Settlement Agreement" means that agreement among the United States for the benefit of the Shivwits Band, Utah, the Shivwits Band, the Washington County Water Conservancy District, St. George City, the New Santa Clara Field Canal Company, the St. George Clara Field Canal Company, the Ivins Irrigation Company, the Southgate Irrigation Company, Bloomington Irrigation Company, Ed Bowler, and the Lower Gunlock Reservoir Company, together with all exhibits thereto, as the same is approved and executed by the Secretary of the Interior pursuant to section 8 of this Act.
(11) Shivwits water right.-- The term “Shivwits Water Right" means the water rights of the Shivwits Band set forth in the Settlement Agreement and as settled, confirmed, and ratified by section 7 of this Act.
(12) Shivwits band trust fund.-- The term “Shivwits Band Trust Fund" means the Trust Fund authorized in section 11 of this Act to further the purposes of the Settlement Agreement and this Act.
(13) Virgin river resource management and recovery program.-- The term “Virgin River Resource Management and Recovery Program" means the proposed multiagency program, to be administered by the United States Fish and Wildlife Service, Bureau of Land Management, National Park Service, Utah, and the District, whose primary purpose is to prioritize and implement native fish recovery actions that offset impacts due to future water development in the Virgin River basin.

**Sec. 5. [St. George Water Reuse Project.]--**

(a) St. George Water Reuse Project.--The St. George Water Reuse Project shall consist of water treatment facilities, a pipeline, and associated pumping and delivery facilities owned and operated by St. George, which is a component of, and shall divert water from, the Water Reclamation Facility located in St. George, Utah, and shall transport this water for delivery to and use by St. George and the Shivwits Band. St. George shall make 2,000 acre-feet of water available annually for use by the Shivwits Band in accordance with the St. George Water Reuse Project Agreement and this Act.

(b) Project Construction Operation and Maintenance.—

(1) St. George shall be responsible for the design, engineering, permitting, construction, operation, maintenance, repair, and replacement of the St. George Water Reuse Project, and the payment of its proportionate share of these project costs as provided for in the St. George Water Reuse Project Agreement.

(2) The Shivwits Band and the United States for the benefit of the Shivwits Band shall make available, in accordance with the terms of the St. George Water Reuse Agreement and this Act, a total of $15,000,000 to St. George for the proportionate share of the design, engineering, permitting, construction, operation, maintenance, repair, and replacement of the St. George Water Reuse Project associated with the 2,000 acre-feet annually to be provided to the Shivwits Band.

**Sec. 6. [Santa Clara Project.]--**

(a) Santa Clara Project.-- The Santa Clara Project shall consist of a pressurized pipeline from the existing Gunlock Reservoir across the Shivwits Reservation to and including Ivins Reservoir, along with main lateral pipelines. The Santa Clara Project shall pool and deliver the water rights of the parties as set forth in the Santa Clara Project Agreement. The Santa Clara Project shall deliver to the Shivwits Band a total of 1,900 acre-feet annually in accordance with the Santa Clara Project Agreement and this Act.

(b) Instream Flow.-- The Santa Clara Project shall release instream flow water from the Gunlock Reservoir into the Santa Clara River for the benefit of the Virgin Spinedace, in accordance with the Santa Clara Project Agreement and this Act.

(c) Project Funding.-- The Utah Legislature and the United States Congress have each appropriated grants of $750,000 for the construction of the Santa Clara Project. The District shall provide a grant of $750,000 for the construction of the Santa Clara Project. The District shall provide any additional funding required for the construction of the Santa Clara Project.

(d) Project Construction, Operation, and Maintenance.-- The District shall be responsible for the permitting, design, engineering, construction, and the initial operation, maintenance, repair, and replacement of the Santa Clara Project. Operation, maintenance, repair, and replacement activities and costs of the Santa Clara Project shall be handled in accordance with the terms of the Santa Clara Project Agreement.

**Sec. 7. [Shivwits Water Right.]--**

(a) In General.-- The Shivwits Band and its members shall have the right in perpetuity to divert, pump, impound, use, and reuse a total of 4,000 acre-feet of water annually from the Virgin River and Santa Clara River systems, to be taken as follows:

(1) 1,900 acre-feet annually from the Santa Clara River System, with an 1890 priority date in accordance with the terms of the Santa Clara Project Agreement.

(2) 2,000 acre-feet of water annually from the St. George Water Reuse Project as provided for in the St. George Water Reuse Project Agreement. The Shivwits Band shall have first priority to the reuse water provided from the St. George Water Reclamation Facility.

(3) 100 acre-feet annually, with a 1916 priority date, from groundwater on the Shivwits Reservation.

(b) Water Rights Claims.-- All water rights claims of the Shivwits Band, and the Paiute Indian Tribe of Utah acting on behalf of the Shivwits Band, are hereby settled. The Shivwits Water Right is hereby ratified, confirmed, and shall be held in trust by the United States for the benefit of the Shivwits Band.

(c) Settlement.-- The Shivwits Band may use water from the springs and runoff located on the Shivwits Reservation. The amount used from these sources will be reported annually to the Utah State Engineer by the Shivwits Band and shall be counted against the annual 4,000 acre-feet Shivwits Water Right.
(d) Abandonment, Forfeiture, or Nonuse.-- The Shivwits Water Right shall not be subject to loss by abandonment, forfeiture, or nonuse.
(e) Use or Lease.-- The Shivwits Band may use or lease the Shivwits Water Right for either or both of the following:

(1) For any purpose permitted by tribal or Federal law anywhere on the Shivwits Band Reservation. Once the water is delivered to the Reservation, such use shall not be subject to State law, regulation, or jurisdiction.

(2) For any beneficial use off the Shivwits Reservation in accordance with the St. George Water Reuse Agreement, the Santa Clara Project Agreement, the Settlement Agreement, and all applicable Federal and State laws. No service contract, lease, exchange, or other agreement entered into under this subsection may permanently alienate any portion of the Shivwits Water Right.

**Sec. 8. [Ratification of Agreements.]--** Except to the extent that the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement conflict with the provisions of this Act, such agreements are hereby approved, ratified, and confirmed. The Secretary is hereby authorized to execute, and take such other actions as are necessary to implement, such agreements.

**Sec. 9. [Satisfaction of Claims.]**

(a) Full Satisfaction of Claims.--The benefits realized by the Shivwits Band and its members under the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, the Settlement Agreement, and this Act shall constitute full and complete satisfaction of all water rights claims, and any continuation thereafter of any of these claims, of the Shivwits Band and its members, and the Paiute Indian Tribe of Utah acting on behalf of the Shivwits Band, for water rights or injuries to water rights under Federal and State laws from time immemorial to the effective date of this Act. Notwithstanding the foregoing, nothing in this Act shall be—

(1) deemed to recognize or establish any right of a member of the Shivwits Band to water on the Shivwits Reservation; or

(2) interpreted or construed to prevent or prohibit the Shivwits Band from participating in the future in other water projects, or from purchasing additional water rights for their benefit and use, to the same extent as any other entity.

(b) Waiver and Release.-- By the approval, ratification, and confirmation herein of the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, and the Settlement Agreement, the United States executes the following waiver and release in conjunction with the Reservation of Rights and Retention of Claims set forth in the Settlement Agreement, to be effective upon satisfaction of the conditions set forth in section 14 of this Act. Except as otherwise provided in the Settlement Agreement, this Act, or the proposed judgment and decree referred to in section 14(a)(7) of this Act, the United States, on behalf of the Shivwits Band and the Paiute Indian Tribe of Utah acting on behalf of the Shivwits Band, waives and releases the following:

(1) All claims for water rights or injuries to water rights for lands within the Shivwits Reservation that accrued at any time up to and including the effective date determined by section 14 of this Act, and any continuation thereafter of any of these claims, that the

United States for the benefit of the Shivwits Band may have against Utah, any agency or political subdivision thereof, or any person, entity, corporation, or municipal corporation.

(2) All claims for water rights or injuries to water rights for lands outside of the Shivwits Reservation, where such claims are based on aboriginal occupancy of the Shivwits Band, its members, or their predecessors, that accrued at any time up to and including the effective date determined by section 14 of this Act, and any continuation thereafter of any of these claims, that the United States for the benefit of the Shivwits Band may have against Utah, any agency or political subdivision thereof, or any person, entity, corporation, or municipal corporation.

(3) All claims for trespass to lands on the Shivwits Reservation regarding the use of Ivins Reservoir that accrued at any time up to and including the effective date determined by section 14 of this Act.

(c) Definitions.-- For purposes of this section--

(1) "water rights" means rights under State and Federal law to divert, pump, impound, use or reuse, or to permit others to divert, pump, impound, use or reuse water; and

(2) "injuries to water rights" means the loss, deprivation, or diminution of water rights.

(d) Savings Provision.--In the event the waiver and release contained in subsection (b) of this section do not become effective pursuant to section 14, the Shivwits Band and the United States shall retain the right to assert past and future water rights claims as to all lands of the Shivwits Reservation, and the water rights claims and defenses of all other parties to the agreements shall also be retained.

**Sec. 10. [Water Rights and Habitat Acquisition Program.]--**

(a) In General.--The Secretary is authorized to establish a water rights and habitat acquisition program in the Virgin River Basin--

(1) primarily for the benefit of native plant and animal species in the Santa Clara River Basin which have been listed, are likely to be listed, or are the subject of a duly approved conservation agreement under the Endangered Species Act; and

(2) secondarily for the benefit of native plant and animal species in other parts of the Virgin River Basin which have been listed, are likely to be listed, or are the subject of a duly approved conservation agreement under the Endangered Species Act.

(b) Water and Water Rights.--The Secretary is authorized to acquire water and water rights, with or without the lands to which such rights are appurtenant, and to acquire shares in irrigation and water companies, and to transfer, hold, and exercise such water and water rights and related interests to assist the conservation and recovery of any native plant or animal species described in subsection (a).

(c) Requirements.-- Acquisition of the water rights and related interests pursuant to this section shall be subject to the following requirements:

(1) Water rights acquired must satisfy eligibility criteria adopted by the Secretary.

(2) Water right purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to the water rights acquisition program established by this section.

(3) All water rights shall be transferred and administered in accordance with any applicable State law.

(d) Habitat Property.-- The Secretary is authorized to acquire, hold, and transfer habitat property to assist the conservation and recovery of any native plant or animal species described in section

10(a). Acquisition of habitat property pursuant to this section shall be subject to the following requirements:

(1) Habitat property acquired must satisfy eligibility criteria adopted by the Secretary.

(2) Habitat property purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to the habitat acquisition program established by this section.

(e) Contract.-- The Secretary is authorized to administer the water rights and habitat acquisition program by contract or agreement with a non-Federal entity which the Secretary determines to be qualified to administer such program. The water rights and habitat acquisition program shall be administered pursuant to the Virgin River Resource Management and Recovery Program.

(f) Authorization.-- There is authorized to be appropriated from the Land and Water Conservation Fund for fiscal years prior to the fiscal year 2004, a total of $3,000,000 for the water rights and habitat acquisition program authorized in this section. The Secretary is authorized to deposit and maintain this appropriation in an interest-bearing account, said interest to be used for the purposes of this section. The funds authorized to be appropriated by this section shall not be in lieu of or supersede any other commitments by Federal, State, or local agencies. The funds appropriated pursuant to this section shall be available until expended, and shall not be expended for the purpose set forth in subsection (a)(2) until the Secretary has evaluated the effectiveness of the instream flow required and provided by the Santa Clara Project Agreement, and has assured that the appropriations authorized in this section are first made available for the purpose set forth in subsection (a)(1).

**Sec. 11. [Shivwits Band Trust Fund.]--**

(a) Establishment of Trust Fund.-- There is established in the Treasury of the United States a fund to be known as the “Shivwits Band Trust Fund" (hereinafter called the “Trust Fund"). The Secretary shall deposit into the Trust Fund the funds authorized to be appropriated in subsections (b) and (c). Except as otherwise provided in this Act, the Trust Fund principal and any income accruing thereon shall be managed in accordance with the American Indian Trust Fund Management Reform Act (108 Stat. 4239; 25 U.S.C. 4001 et seq.).

(b) Authorization.-- There is authorized to be appropriated a total of $20,000,000, for fiscal years prior to the fiscal year 2004 for the following purposes:

(1) $5,000,000, which shall be made available to the Shivwits Band from the Trust Fund for purposes including but not limited to those that would enable the Shivwits Band to put to beneficial use all or part of the Shivwits Water Right, to defray the costs of any water development project in which the Shivwits Band is participating, or to undertake any other activity that may be necessary or desired for implementation of the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, the Settlement Agreement, or for economic development on the Shivwits Reservation.

(2) $15,000,000, which shall be made available by the Secretary and the Shivwits Band to St. George for the St. George Water Reuse Project, in accordance with the St. George Water Reuse Project Agreement.

(c) Share of Certain Costs.-- There is authorized to be appropriated to the Trust Fund in fiscal years prior to the fiscal year 2004 a total of $1,000,000 to assist with the Shivwits Band's proportionate share of operation, maintenance, repair, and replacement costs of the Santa Clara Project as provided for in the Santa Clara Project Agreement.

(d) Use of the Trust Fund.-- Except for the $15,000,000 appropriated pursuant to subsection (b)(2), all Trust Fund principal and income accruing thereon may be used by the Shivwits Band

for the purposes described in subsections (b)(1) and (c). The Shivwits Band, with the approval of the Secretary, may withdraw the Trust Fund and deposit it in a mutually agreed upon private financial institution. That withdrawal shall be made pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.). If the Shivwits Band exercises its right pursuant to this subsection to withdraw the Trust Fund and deposit it in a private financial institution, except as provided in the withdrawal plan, neither the Secretary nor the Secretary of the Treasury shall retain any oversight over or liability for the accounting, disbursement, or investment of the funds.

(e) No Per Capita Payments.-- No part of the principal of the Trust Fund, or of the income accruing thereon, or of any revenue generated from any water use subcontract, shall be distributed to any member of the Shivwits Band on a per capita basis.

(f ) Limitation.-- The moneys authorized to be appropriated under subsections (b) and (c) shall not be available for expenditure or withdrawal by the Shivwits Band until the requirements of section 14 have been met so that the decree has become final and the waivers and releases executed pursuant to section 9(b) have become effective. Once the settlement becomes effective pursuant to the terms of section 14 of this Act, the assets of the Trust Fund belong to the Shivwits Band and are not returnable to the United States Government.

**Sec. 12. [Environmental Compliance.]--**

(a) National Environmental Policy Act.-- Signing by the Secretary of the St. George Water Reuse Project Agreement, the Santa Clara Project Agreement, or the Settlement Agreement does not constitute major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Other Requirements.-- The Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable environmental laws in implementing the terms of the St. George Water Reuse Agreement, the Santa Clara Project Agreement, the Settlement Agreement, and this Act.

**Sec. 13. [Miscellaneous Provisions.]--**

(a) Other Indian Tribes.-- Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of any Indian tribe, pueblo, or community, other than the Shivwits Band and the Paiute Indian Tribe of Utah acting on behalf of the Shivwits Band.

(b) Precedent.-- Nothing in this Act shall be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future water settlement Acts.

(c) Waiver of Sovereign Immunity.-- Except to the extent provided in subsections (a), (b), and (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this Act may be construed to waive the sovereign immunity of the United States. Furthermore, the submission of any portion of the Settlement Agreement to the District Court in the Virgin River Adjudication shall not expand State court jurisdiction or expand in any manner the waiver of sovereign immunity of the United States in section 666 of title 43, United States Code, or any other provision of Federal law.

(d) Appraisals.-- Notwithstanding any other law to the contrary, the Secretary is authorized to approve any right-of-way appraisal which has been completed in accordance with the provisions of the Santa Clara Project Agreement.

**Sec. 14. [Effective Date.]--**

(a) In General.-- The waiver and release contained in section 9(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that--

(1) the funds authorized by sections 11(b) and 11(c) have been appropriated and deposited into the Trust Fund;

(2) the funds authorized by section 10(f) have been appropriated;

(3) the St. George Water Reuse Project Agreement has been modified to the extent it is in conflict with this Act and is effective and enforceable according to its terms;

(4) the Santa Clara Project Agreement has been modified to the extent it is in conflict with this Act and is effective and enforceable according to its terms;

(5) the Settlement Agreement has been modified to the extent it is in conflict with this Act and is effective and enforceable according to its terms;

(6) the State Engineer of Utah has taken all actions and approved all applications necessary to implement the provisions of the St. George Water Reuse Agreement, the Santa Clara Project Agreement, and the Settlement Agreement, from which no further appeals may be taken; and

(7) the court has entered a judgment and decree confirming the Shivwits Water Right in the Virgin River Adjudication pursuant to Utah Rule of Civil Procedure 54(b), that confirms the Shivwits Water Right and is final as to all parties to the Santa Clara Division of the Virgin River Adjudication and from which no further appeals may be taken, which the United States and Utah find is consistent in all material aspects with the Settlement Agreement and with the proposed judgment and decree agreed to by the parties to the Settlement Agreement.

(b) Deadline.-- If the requirements of paragraphs (1) through (7) of subsection (a) are not completed to allow the Secretary's statement of findings to be published by December 31, 2003—

(1) except as provided in section 9(d), this Act shall be of no further force and effect; and

(2) all unexpended funds appropriated under section 11(b) and (c), together with all interest earned on such funds shall revert to the general fund of the United States Treasury on October 1, 2004.

Approved August 18, 2000

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3291:
HOUSE REPORT: No. 106-743, Comm. on Resources, July 17, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 15, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):

July 25, considered and passed House, Pg. H6954.
July 27, considered and passed Senate, Pg. S7803.

October 10, 2000

## AK-CHIN WATER USE AMENDMENTS ACT OF 1999

An act to amend the Act entitled "An Act relating to the water rights of the Ak-Chin Indian Community" to clarify certain provisions concerning the leasing of such water rights, and for other purposes. (Act of October 10, 2000, Public Law 106-285, 114 Stat. 878)

**[Section 1. Constitutional Authority]--** The Constitutional authority for this Act rests in article I, section 8, authorizing Congress to "regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes".

**Sec. 2. [Technical Amendments to Ak-Chin Water Use Act of 1984]--**

(a) Short Title.--This section may be cited as the "Ak-Chin Water Use Amendments Act of 2000".

(b) Authorization of Use of Water.-- Section 2( j) of the Act of October 19, 1984 (Public Law 98-530; 98 Stat. 2698), as amended by section 10 of the Act of October 24, 1992 (Public Law 102-497; 106 Stat. 3258), is amended to read as follows:

> "( j)(1) The Ak-Chin Indian Community (hereafter in this Act referred to as the `Community') shall have the right to devote the permanent water supply provided for by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational, or other beneficial use, in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew options to lease, to extend the initial terms of leases for the same or a lesser term as the initial term of the lease, to renew leases for the same or a lesser term as the initial term of the lease, to exchange or temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.
>
> "(2) Notwithstanding paragraph (1), the initial term of any lease entered into under this subsection shall not exceed 100 years and the Community may not permanently alienate any water right. In the event the Community leases, enters into an option to lease, renews an option to lease, extends a lease, renews a lease, or exchanges or temporarily disposes of water, such action shall only be valid pursuant to a contract that has been accepted and ratified by a resolution of the Ak-Chin Indian Community Council and approved and executed by the Secretary.".

(c) Approval of Lease and Amendment of Lease.-- The option and lease agreement among the Ak-Chin Indian Community, the United States of America, and Del Webb Corporation, dated as of December 14, 1996, and the Amendment Number One thereto among the Ak-Chin Indian Community, the United States of America, and Del Webb Corporation, dated as of January 7, 1999, are hereby ratified and approved. The Secretary of the Interior is hereby authorized and directed to execute Amendment Number One, and the restated agreement as provided in Amendment Number One, not later than 60 days after the date of the enactment of this Act.

Approved October 10, 2000

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2647:
House Reports: No. 106-598, Comm. on Resources, May 2, 2000.
Senate Reports: No. 106-415, Comm. on Indian Affairs, Sept. 19, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, April 18, 2000.
Senate Bill, Aug. 2, 2000
CONGRESSIONAL RECORD, Vol. 146 (2000):
May 9, considered and passed House. Pg. H2662.
Sept. 27, considered and passed Senate. Pg. S9397.

October 19, 2000

## ARROWROCK DAM HYDROELECTRIC PROJECT, IDAHO

An act to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho. (Act of October 19, 2000, Public Law 106-343, 114 Stat. 1317)

**[Section 1. Extension of Time for Federal Energy Regulatory Commission Project.]-**
(a) In General.-- Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, the Commission may, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for three consecutive 2-year periods.
(b) Effective Date.-- Subsection (a) shall take effect on the date of the expiration of the extension issued by the Commission prior to the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).
(c) Reinstatement of Expired License.-- If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

Approved October 19, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1236:
House Report: No. 106-630, Comm. on Commerce, May 19, 2000.
Senate Report: No. 106-170, Comm. on Energy and Natural Resources, Oct. 4, 1999.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, May 18, 2000
Senate Bill, Sept. 27, 1999
CONGRESSIONAL RECORD: Vol. 145 (1999):
Nov. 19, considered and passed Senate, S15163.
CONGRESSIONAL RECORD Vol. 146 (2000):
May 22, considered and passed House, amended, Pg. H3488.
Oct. 5, Senate concurred in House amendment, Pg. S10003.

October 27, 2000

## MISSOURI RIVER BASIN CONVEYANCE

An act to direct the Secretary of the Interior, through the Bureau of Reclamation, to convey to the Loup Basin Reclamation District, the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska, property comprising the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska. (Act of October 27, 2000, Public Law 106-366, 114 Stat. 1410)

**[Section 1. Conveyance of the assets of the Middle Loup Division of the Missouri River Basin Project, Nebraska.]--**

(a) In General.-- The Secretary shall, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law, convey all right, title, and interest in and to the property comprising the assets of the Missouri River Basin Project, Middle Loup Division, Nebraska, in accordance with the Memorandum of Understanding.

(b) Sale Price.-- The Secretary shall accept $2,847,360 as payment from the District and $2,600,000 as payment from the power customers under the terms specified in this section, as consideration for the conveyance under subsection (a). Out of the receipts from the sale of power from the Pick-Sloan Missouri Basin Program (Eastern Division) collected by the Western Area Power Administration and deposited into the Reclamation fund of the Treasury in fiscal year 2001, $2,600,200 shall be treated as full and complete payment by the power customers of such consideration and repayment by the power customers of all aid to irrigation associated with the facilities conveyed under subsection (a).

(c) Future Benefits.-- Upon payment by the Districts of consideration for the conveyance in accordance with the Memorandum of Understanding, the Middle Loup Division of the Missouri River Basin Project--

(1) shall not be treated as a Federal reclamation project; and

(2) shall not be subject to the reclamation laws or entitled to receive any reclamation benefits under those laws.

(d) Liability.--Except as otherwise provided by law, effective on the date of conveyance of the assets under this section, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the assets.

**Sec. 2. [Definitions.]--** In this Act:

(1) Assets.-- The term “assets" has the meaning that term has in the Memorandum of Understanding.

(2) Districts.-- The term “Districts" means the Loup Basin Reclamation District, the Sargent River Irrigation District, and the Farwell Irrigation District, Nebraska.

(3) Memorandum of understanding.-- The term “Memorandum of Understanding" means Bureau of Reclamation memorandum of understanding number 99AG601285,
entitled “MEMORANDUM OF UNDERSTANDING BETWEEN UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION GREAT PLAINS REGION NEBRASKA-KANSAS AREA OFFICE AND LOUP BASIN RECLAMATION DISTRICT FARWELL IRRIGATION DISTRICT SARGENT IRRIGATION DISTRICT CONCERNING PRINCIPLES AND ELEMENTS OF PROPOSED TRANSFER OF TITLE TO WORKS, FACILITIES AND LANDS IN THE MIDDLE LOUP DIVISION".

Approved October 27, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2984 (S. 1612):
HOUSE REPORT: No. 106-829, Comm. on Resources, Sept. 7, 2000.
SENATE REPORT: No. 106-373, accompanying S. 1612, Comm. on Energy and Natural Resources, Aug. 25, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Sept. 1, 2000
Cost Estimate, As Passed, Oct. 26, 2000
CONGRESSIONAL RECORD, Vol. 146 (2000):
Debate and cleared House, Sept. 18, 2000, H7662.
Debate and cleared Senate, Oct. 13, 2000, Pg. S10542.

October 27, 2000

## WEBER BASIN CONSERVANCY DISTRICT, IDAHO

An act to authorize the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District, Utah, to use Weber Basin Project facilities for the impounding, storage, and carriage of non-project water for domestic, municipal, industrial, and other beneficial purposes. (Act of October 27, 2000 Public Law 106-368, 114 Stat. 1416)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may enter into contracts with the Weber Basin Water Conservancy District or any of its member unit contractors under the Act of February 21, 1911 (43 U.S.C. 523), for--

(1) the impounding, storage, and carriage of non-project water for domestic, municipal, industrial, and other beneficial purposes, using facilities associated with the Weber Basin Project, Utah; and

(2) the exchange of water among Weber Basin Project contractors, for the purposes set forth in paragraph (1), using facilities associated with the Weber Basin Project, Utah.

Approved October 27, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 3236:
HOUSE REPORT: No. 106-742, Comm. on Resources, July 17, 2000.
SENATE REPORT: No. 106-434, Comm. on Energy and Natural Resources, Sept. 28, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 23, 2000
Senate Bill, Sept. 26, 2000.
Final Bill, Oct. 20, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
July 25, considered and passed House, Pg. H6882.
Oct. 13, considered and passed Senate, S10528.

October 27, 2000

# DUCHESNE CITY WATER RIGHTS CONVEYANCE ACT

An Act to direct the Secretary of the Interior to convey to certain water rights to Duchesne City, Utah. (An act of October 27, 2000, Public Law 106-370, 114 Stat. 421)

**[Section 1. Short Title.]--** This Act may be cited as the "Duchesne City Water Rights Conveyance Act".

**Sec. 2. [Findings.]--** The Congress finds the following:

(1) In 1861, President Lincoln established the Uintah Valley Reservation by Executive order. The Congress confirmed the Executive order in 1864 (13 Stat. 63), and additional lands were added to form the Uintah Indian Reservation (now known as the Uintah and Ouray Indian Reservation).

(2) Pursuant to subsequent Acts of Congress, lands were allotted to the Indians of the reservation, and unallotted lands were restored to the public domain to be disposed of under homestead and townsite laws.

(3) In July 1905, President Theodore Roosevelt reserved lands for the townsite for Duchesne, Utah, by Presidential proclamation and pursuant to the applicable townsite laws.

(4) In July 1905, the United States, through the Acting United States Indian Agent in Behalf of the Indians of the Uintah Indian Reservation, Utah, filed two applications, 43-180 and 43-203, under the laws of the State of Utah to appropriate certain waters.

(5) The stated purposes of the water appropriation applications were, respectively, "for irrigation and domestic supply for townsite purposes in the lands herein described", and "for the purpose of irrigating Indian allotments on the Uintah Indian Reservation, Utah, and for an irrigating and domestic water supply for townsite purposes in the lands herein described".

(6) The United States subsequently filed change applications which provided that the entire appropriation would be used for municipal and domestic purposes in the town of Duchesne, Utah.

(7) The State Engineer of Utah approved the change applications, and the State of Utah issued water right certificates, identified as Certificate Numbers 1034 and 1056, in the name of the United States Indian Service in 1921, pursuant to the applications filed, for domestic and municipal uses in the town of Duchesne.

(8) Non-Indians settled the town of Duchesne, and the inhabitants have utilized the waters appropriated by the United States for townsite purposes.

(9) Pursuant to title V of Public Law 102-575, Congress ratified the quantification of the reserved waters rights of the Ute Indian Tribe, subject to re-ratification of the water compact by the State of Utah and the Tribe.

(10) The Ute Indian Tribe does not oppose legislation that will convey the water rights appropriated by the United States in 1905 to the city of Duchesne because the appropriations do not serve the purposes, rights, or interests of the Tribe or its members, because the full amount of the reserved water rights of the Tribe will be quantified in other proceedings, and because the Tribe and its members will receive substantial benefits through such legislation.

(11) The Secretary of the Interior requires additional authority in order to convey title to those appropriations made by the United States in 1905 in order for the city of Duchesne to continue to enjoy the use of those water rights and to provide additional benefits to the Ute Indian Tribe and its members as originally envisioned by the 1905 appropriations.

**Sec. 3. [Conveyance of Water Rights to Duchesne City, Utah.]--**
(a) Conveyance.--The Secretary of the Interior, as soon as practicable after the date of the enactment of this Act, and in accordance with all applicable law, shall convey to Duchesne City, Utah, or a water district created by Duchesne City, all right, title, and interest of the United States in and to those water rights appropriated under the laws of the State of Utah by the Department of the Interior's United States Indian Service and identified as Water Rights Nos. 43-180 (Certificate No. 1034) and 43-203 (Certificate No. 1056) in the records of the State Engineer of Utah.
(b) Required Terms.--

(1) In general.-- As terms of any conveyance under subsection (a), the Secretary shall require that Duchesne City—

(A) shall allow the Ute Indian Tribe of the Uintah and Ouray Reservation, its members, and any person leasing or utilizing land that is held in trust for the Tribe by the United States and is located within the Duchesne City water service area (as such area may be adjusted from time to time), to connect to the Duchesne City municipal water system;

(B) shall not require such tribe, members, or person to pay any water impact, connection, or similar fee for such connection; and

(C) shall not require such tribe, members, or person to deliver or transfer any water or water rights for such connection.

(2) Limitation.--Paragraph (1) shall not be construed to prohibit Duchesne City from charging any person that connects to the Duchesne City municipal water system pursuant to paragraph (1) reasonable, customary, and nondiscriminatory fees to recover costs of the operation and maintenance of the water system to treat, transport, and deliver water to the person.

**Sec. 4. [Water Rights.]--**
(a) No Relinquishment or Reduction.-- Except as provided in section 3, nothing in this Act may be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Utah on or before the date of the enactment of this Act.
(b) No Precedent.-- Nothing in this Act may be construed as establishing a precedent for conveying or otherwise transferring water rights held by the United States.
**Sec. 5. [Tribal Rights.]--** Nothing in this Act may be construed to affect or modify any treaty or other right of the Ute Indian Tribe or any other Indian tribe.

Approved October 27, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3468 (S. 2350):
HOUSE REPORT: No. 106-737, Comm. on Resources, July 17, 2000.
SENATE REPORT: No. 106-478, accompanying S. 2350, Comm. on Energy and Natural Resources, Sept. 22, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 8, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
July 25, considered and passed House, Pg. H6883.
Oct. 13, considered and passed Senate, Pg. S10527.

October 27, 2000

## MINIDOKA RECLAMATION PROJECT, IDAHO, AUTHORIZATION INCREASE

An Act to increase the amount authorized to be appropriated for the north side pumping division of the Minidoka reclamation project, Idaho. (An act of October 27, 2000, Public Law 106-371, 114 Stat. 1424)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of September 30, 1950 (chapter 1114; 64 Stat. 1085), authorizing appropriations for the north side pumping division of the Minidoka reclamation project, Idaho, is amended by striking "$11,395,000" and inserting "$14,200,000".

Approved October 27, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 3577:
HOUSE REPORT: No. 106-599, Comm. on Resources, May 2, 2000.
SENATE REPORT: No. 106-435, Comm. on Energy and Natural Resources, Sept. 28, 200.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Sept. 26, 2000.
House Bill, April 13, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
May 8, considered and passed House., Pg. H2619.
Oct. 13, considered and passed Senate, Pg. S10528.

October 27, 2000

## CHANDLER PUMPING PLANT AT PROSSER DIVERSION DAM, WASHINGTON.

An Act to provide for a study of the engineering feasibility of a water exchange in lieu of electrification of the Chandler Pumping Plant at Prosser Diversion Dam, Washington. (An act of Oct. 27, 2000, Public Law 106-372, 114 Stat. 1425)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1208 of Public Law 103-434 (108 Stat. 4562) is amended--
(1) in subsection (a)--
(A) in the subsection heading, by inserting “or Water Exchange" after “Electrification";
(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately; (C) by striking “In order to" and inserting the following:
“(1) Electrification.--In order to"; and (D) by adding at the end the following:
“(2) Water exchange alternative.—
“(A) In general.--As an alternative to the measures authorized under paragraph (1) for electrification, the Secretary is authorized to use not more than $4,000,000 of sums appropriated under paragraph (1) to study the engineering feasibility of exchanging water from the Columbia River for water historically diverted from the Yakima River.
“(B) Requirements.-- In carrying out subparagraph (A), the Secretary, in coordination with the Kennewick Irrigation District and in consultation with the Bonneville Power Administration, shall—
“(i) prepare a report that describes project benefits and contains feasibility level designs and cost estimates;
“(ii) secure the critical right-of-way areas for the pipeline alignment;
“(iii) prepare an environmental assessment; and
“(iv) conduct such other studies or investigations as are necessary to develop a water exchange.";
(2) in subsection (b)—
(A) in paragraph (1), by inserting “or water exchange" after “electrification"; and
(B) in the second sentence of paragraph (2)(A), by inserting “or the equivalent of the rate" before the period;
(3) in subsection (d), by striking “electrification," each place it appears and inserting “electrification or water exchange"; and (4) in subsection (d), by striking “of the two" and inserting “thereof ".

Approved October 27, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 3986 (S. 2163):
House Report: No. 106-864, Comm. on Resources, Sept. 19, 2000.
Senate Report: No. 106-488 accompanying S. 2163, Comm. on Energy and Natural Resources, Sept. 22, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Sept. 20, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):

Sept. 19, considered and rejected in House, Pg. H7747.
Sept. 20, considered and passed House, Pg. H7885.
Oct. 13, considered and passed Senate, Pg. S10542.

October 27, 2000

## Grant Authorization for Water Resources Research and Technology Institutes

An Act to reauthorize grants for water resources research and technology institutes established under the Water Resources Research Act of 1984. (An act of October 27, 2000, Public Law 106-374, 114 Stat. 1434)

**[Section 1: Water Resources Research Program Grants.]--** Section 104(f )(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking "$5,000,000 for fiscal year 1996, $7,000,000 for each of fiscal years 1997 and 1998, and $9,000,000 for each of fiscal years 1999 and 2000" and inserting "$9,000,000 for fiscal year 2001, $10,000,000 for each of fiscal years 2002 and 2003, and $12,000,000 for each of fiscal years 2004 and 2005".
**Sec. 2. [Grants for Research Focused on Water Problems of Interstate Nature.]--** The first sentence of section 104(g)(1) of such Act (42 U.S.C. 10303(g)(1)) is amended by striking "$3,000,000 for each of fiscal years 1996 through 2000" and inserting "$3,000,000 for fiscal year 2001, $4,000,000 for each of fiscal years 2002 and 2003, and $6,000,000 for each of fiscal years 2004 and 2005".

Approved October 27, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 4132 (S. 2297):
House Report: No. 106-714, Comm. on Resources, July 10, 2000.
Senate Report: No. 106-369 accompanying S. 2297, Comm. on Environment and Public Works, Aug. 25, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 5, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
July 10, considered and passed House, Pg. H561.
Oct. 18, considered and passed Senate, Pg. S10735.

October 27, 2000

## NORTHERN COLORADO WATER CONSERVANCY DISTRICT CONVEYANCE

An Act to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District. (An act of October 27, 2000, Public Law 106-376, 114 Stat.1439)

**[Section 1: Definitions.]--** In this Act:
(1) Contract.--The term “contract" means the contract between the United States and the Northern Colorado Water Conservancy District providing for the construction of the Colorado-Big Thompson Project, dated July 5, 1938 (including any amendments and supplements).
(2) District.-- The term “District" means the Northern Colorado Water Conservancy District.
(3) Secretary.-- The term “Secretary" means the Secretary of the Interior.
(4) Transferred water distribution facilities.--The term “transferred water distribution facilities" means the North Poudre Supply Canal and Diversion Works, also known as the Munroe Gravity Canal, the Charles Hansen (Supply) Canal and Windsor Extension, and the Dixon Feeder Canal, all of which are facilities of the Colorado-Big Thompson Project located in Larimer County, Colorado.
**Sec. 2. [Conveyance of Transferred Water Distribution Facilities.]--**
(a) In General.-- The Secretary shall, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law, convey to the District all right, title, and interest in and to the transferred water distribution facilities.
(b) Sale Price.--

(1) In general.--The Secretary shall accept $150,315 as payment from the District and $1,798,200 as payment from the power customers under the terms specified in this section, as consideration for the conveyance under subsection (a). Out of the receipts from the sale of power from the Loveland Area Projects collected by the Western Area Power Administration and deposited into the Reclamation fund of the Treasury in fiscal year 2001, $1,798,200 shall be treated as full and complete payment by the power customers of such consideration and repayment by the power customers of all aid to irrigation associated with the facilities conveyed under subsection (a).
(2) No effect on obligations and rights.-- Except as expressly provided in this Act, nothing in this Act affects or modifies the obligations and rights of the District under the contract.
(3) Payments.-- Except as provided in subsection (c), the District shall continue to make such payments as are required under the contract.

(c) Credit Toward Project Repayment.--Upon payment by the District of the amount authorized to be accepted from the District under subsection (b)(1), the amount paid shall be credited toward repayment of capital costs of the Colorado-Big Thompson Project in an amount equal to the associated undiscounted obligation for repayment of the capital costs.
**Sec. 3. [Liability.]--** Except as otherwise provided by law, effective on the date of conveyance of the transferred water distribution facilities under this Act, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on any prior ownership or operation by the United States of the conveyed property.

Approved October 27, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 4389 (S. 2400):
House Report: No. 106-812, Comm. on Resources, Sept. 6, 2000.
Senate Report: No. 106-450, accompanying S. 2400, Comm. on Energy and Natural Resources, Oct. 2, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Final Bill, Oct. 20, 2000.
House Bill, July 24, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
Oct. 3, considered and passed House, Pg. H8721.
Oct. 13, considered and passed Senate, Pg. S0542.
BUREAU OF RECLAMATION TESTIMONY
Sept. 27 and Oct. 6, 2005 (S. 1498) Senate Comm. on Energy and Natural Resources

October 27, 2000

# FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF 2000

An Act to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes. (An act of October 27, 2000, Public Law 106-382, 114 Stat. 1451)

**[Section 1: Short Title.]**-- This Act may be cited as the "Fort Peck Reservation Rural Water System Act of 2000".

**Sec. 2. Purposes.]**-- The purposes of this Act are--

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Fort Peck Indian Reservation in the State of Montana; and

(2) to assist the citizens of Roosevelt, Sheridan, Daniels, and Valley Counties in the State, outside the Fort Peck Indian Reservation, in developing safe and adequate municipal, rural, and industrial water supplies.

**Sec. 3. [Definitions.]**-- In this Act:

(1) Assiniboine and Sioux rural water system.-- The term "Assiniboine and Sioux Rural Water System" means the rural water system within the Fort Peck Indian Reservation authorized by section 4.

(2) Dry prairie rural water system.--The term "Dry Prairie Rural Water System" means the rural water system authorized by section 5 in the Roosevelt, Sheridan, Daniels, and Valley Counties of the State.

(3) Fort peck reservation rural water system.--The term "Fort Peck Reservation Rural Water System" means the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System.

(4) Fort peck tribes.-- The term "Fort Peck Tribes" means the Assiniboine and Sioux Indian Tribes within the Fort Peck Indian Reservation.

(5) Pick-Sloan.-- The term "Pick-Sloan" means the Pick-Sloan Missouri River Basin program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 891)).

(6) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(7) State.-- The term "State" means the State of Montana.

**Sec. 4. [Assiniboine and Sioux Rural Water System.]**--

(a) Authorization.-- The Secretary shall plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the "Assiniboine and Sioux Rural Water System", as generally described in the report required by subsection (g)(2).

(b) Components.-- The Assiniboine and Sioux Rural Water System shall consist of--

(1) pumping and treatment facilities located along the Missouri River within the boundaries of the Fort Peck Indian Reservation;

(2) pipelines extending from the water treatment plant throughout the Fort Peck Indian Reservation;

(3) distribution and treatment facilities to serve the needs of the Fort Peck Indian Reservation, including—

(A) public water systems in existence on the date of the enactment of this Act that may be purchased, improved, and repaired in accordance with the cooperative agreement entered into under subsection (c); and (B) water

systems owned by individual tribal members and other residents of the Fort Peck Indian Reservation;

(4) appurtenant buildings and access roads;

(5) all property and property rights necessary for the facilities described in this subsection;

(6) electrical power transmission and distribution facilities necessary for services to Fort Peck Reservation Rural Water System facilities; and

(7) such other pipelines, pumping plants, and facilities as the Secretary determines to be appropriate to meet the water supply, economic, public health, and environmental needs of the Fort Peck Indian Reservation, including water storage tanks, water lines, and other facilities for the Fort Peck Tribes and the villages, towns, and municipalities in the Fort Peck Indian Reservation.

(c) Cooperative Agreement.--

(1) In general.-- The Secretary shall enter into a cooperative agreement with the Fort Peck Tribal Executive Board for planning, designing, constructing, operating, maintaining, and replacing the Assiniboine and Sioux Rural Water System.

(2) Mandatory provisions.-- The cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Fort Peck Tribal Executive Board--

(A) the responsibilities of each party to the agreement for—

(i) needs assessment, feasibility, and environmental studies;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures; and

(v) administration of contracts relating to performance of the activities described in clauses (i) through (iv).

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Optional provisions.-- The cooperative agreement under paragraph (1) may include provisions relating to the purchase, improvement, and repair of water systems in existence on the date of the enactment of this Act, including systems owned by individual tribal members and other residents of the Fort Peck Indian Reservation.

(4) Termination.-- The Secretary may terminate a cooperative agreement under paragraph (1) if the Secretary determines that--

(A) the quality of construction does not meet all standards established for similar facilities constructed by the Secretary; or

(B) the operation and maintenance of the Assiniboine and Sioux Rural Water System does not meet conditions acceptable to the Secretary that are adequate to fulfill the obligations of the United States to the Fort Peck Tribes.

(5) Transfer.-- On execution of a cooperative agreement under paragraph (1), in accordance with the cooperative agreement, the Secretary may transfer to the Fort Peck Tribes, on a nonreimbursable basis, funds made available for the Assiniboine and Sioux Rural Water System under section 9.

(d) Service Area.-- The service area of the Assiniboine and Sioux Rural Water System shall be the area within the boundaries of the Fort Peck Indian Reservation.

(e) Construction Requirements.-- The components of the Assiniboine and Sioux Rural Water System shall be planned and constructed to a size that is sufficient to meet the municipal, rural, and industrial water supply requirements of the service area of the Fort Peck Reservation Rural Water System.
(f) Title to Assiniboine and Sioux Rural Water System.--Title to the Assiniboine and Sioux Rural Water System shall be held in trust by the United States for the Fort Peck Tribes and shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of the enactment of this Act.
(g) Limitation on Availability of Construction Funds.-- The Secretary shall not obligate funds for construction of the Assiniboine and Sioux Rural Water System until--

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Assiniboine and Sioux Rural Water System;
(2) on or after the date that is 90 days after the date of submission to Congress of a final engineering report approved by the Secretary; and
(3) the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Assiniboine and Sioux Rural Water System that have been shown to be economically and financially feasible.

(h) Technical Assistance.-- The Secretary shall provide such technical assistance as is necessary to enable the Fort Peck Tribes to plan, design, construct, operate, maintain, and replace the Assiniboine and Sioux Rural Water System, including operation and management training.
(i) Application of Indian Self-Determination Act.--Planning, design, construction, operation, maintenance, and replacement of the Assiniboine and Sioux Rural Water System within the Fort Peck Indian Reservation shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).
(j) Cost Sharing.--

(1) Construction.-- The Federal share of the cost of construction of the Assiniboine and Sioux Rural Water System shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Reclamation.
(2) Operation and maintenance.-- The Federal share of the cost of operation and maintenance of the Assiniboine and Sioux Rural Water System shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Indian Affairs.

**Sec. 5. [Dry Prairie Rural Water System.]--**
(a) Planning and Construction.--

(1) Authorization.-- The Secretary shall enter into a cooperative agreement with Dry Prairie Rural Water Association Incorporated (or any successor non-Federal entity) to provide Federal funds for the planning, design, and construction of the Dry Prairie Rural Water System in Roosevelt, Sheridan, Daniels, and Valley Counties, Montana, outside the Fort Peck Indian Reservation.
(2) Use of federal funds.—

(A) Federal share.--The Federal share of the cost of planning, design, and construction of the Dry Prairie Rural Water System shall be not more than 76 percent, and shall be funded with amounts appropriated from the reclamation fund. Such amounts shall not be returnable or reimbursable under the Federal reclamation laws.

(B) Cooperative agreements.--Federal funds made available to carry out this section may be obligated and expended only through a cooperative agreement entered into under subsection (c).

(b) Components.--The components of the Dry Prairie Rural Water System facilities on which Federal funds may be obligated and expended under this section shall include--

(1) storage, pumping, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to Dry Prairie Rural Water System facilities; and

(5) other facilities customary to the development of rural water distribution systems in the State, including supplemental water intake, pumping, and treatment facilities.

(c) Cooperative Agreement.--

(1) In general.--The Secretary, with the concurrence of the Assiniboine and Sioux Rural Water System Board, shall enter into a cooperative agreement with Dry Prairie Rural Water Association Incorporated to provide Federal assistance for the planning, design, and construction of the Dry Prairie Rural Water System.

(2) Mandatory provisions.--The cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and Dry Prairie Rural Water Association Incorporated—

(A) the responsibilities of each party to the agreement for—

(i) needs assessment, feasibility, and environmental studies;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures; and

(v) administration of contracts relating to performance of the activities described in clauses (i) through (iv);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and (C) the rights, responsibilities, and liabilities of each party to the agreement.

(d) Service Area.--

(1) In general.--Except as provided in paragraph

(2), the service area of the Dry Prairie Rural Water System shall be the area in the State--

(A) north of the Missouri River;

(B) south of the border between the United States and Canada;

(C) west of the border between the States of North Dakota and Montana; and

(D) east of the western line of range 39 east.

(2) Fort Peck Indian Reservation.--The service area shall not include the area inside the Fort Peck Indian Reservation.

(e) Limitation on Availability of Construction Funds.-- The Secretary shall not obligate funds for construction of the Dry Prairie Rural Water System until--

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Dry Prairie Rural Water System;

(2) on or after the date that is 90 days after the date of submission to Congress of a final engineering report approved by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Dry Prairie Rural Water System that have been shown to be economically and financially feasible.

(f) Interconnection of Facilities.-- The Secretary shall--

(1) interconnect the Dry Prairie Rural Water System with the Assiniboine and Sioux Rural Water System; and

(2) provide for the delivery of water to the Dry Prairie Rural Water System from the Missouri River through the Assiniboine and Sioux Rural Water System.

(g) Limitation on Use of Federal Funds.--

(1) In general.-- The operation, maintenance, and replacement expenses associated with water deliveries from the Assiniboine and Sioux Rural Water System to the Dry Prairie Rural Water System shall not be a Federal responsibility and shall be borne by the Dry Prairie Rural Water System.

(2) Federal funds.-- The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of the Dry Prairie Rural Water System.

(h) Title to Dry Prairie Rural Water System.-- Title to the Dry Prairie Rural Water System shall be held by Dry Prairie Rural Water Association, Incorporated.

**Sec. 6. [Use of Pick-Sloan Power.]--**

(a) In General.-- From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available, at the firm power rate, the capacity and energy required to meet the pumping and incidental operational requirements of the Fort Peck Reservation Rural Water System.

(b) Qualification To Use Pick-Sloan Power.-- For as long as the Fort Peck Reservation rural water supply system operates on a not-for-profit basis, the portions of the water supply project constructed with assistance under this Act shall be eligible to receive firm power from the Pick-Sloan Missouri Basin program established by section 9 of the Act of December 22, 1944 (chapter 665; 58 Stat. 887), popularly known as the Flood Control Act of 1944.

(c) Recovery of Expenses.--

(1) Assiniboine and Sioux Rural Water System.-- In the case of the Assiniboine and Sioux Rural Water System, the Western Area Power Administration shall recover expenses associated with power purchases under subsection (a) through a separate power charge sufficient to cover such expenses. Such charge shall be paid fully through the annual appropriations to the Bureau of Indian Affairs.

(2) Dry prairie rural water system.-- In the case of the Dry Prairie Rural Water System, the Western Area Power Administration shall recover expenses associated with power purchases under subsection (a) through a separate power charge sufficient to cover expenses. Such charge shall be paid fully by the Dry Prairie Rural Water System.

(d) Additional Power.-- If power in addition to that made available under subsection (a) is required to meet the pumping requirements of the Fort Peck Reservation Rural Water System, the Administrator of the Western Area Power Administration may purchase the necessary additional power at the best available rate. The costs of such purchases shall be reimbursed to the Administrator according to the terms identified in subsection (c).

**Sec. 7. [Water Conservation Plan.]--**

(a) In General.--The Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated shall develop a water conservation plan containing--

(1) a description of water conservation objectives;
(2) a description of appropriate water conservation measures; and
(3) a time schedule for implementing the measures and this Act to meet the water conservation objectives.

(b) Purpose.--The water conservation plan under subsection (a) shall be designed to ensure that users of water from the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System will use the best practicable technology and management techniques to conserve water.

(c) Public Participation.--Section 210(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj(c)) shall apply to an activity authorized under this Act.

**Sec. 8. [Water Rights.]--**

(a) In General.--This Act does not--

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;
(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;
(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;
(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource;
(5) affect any right of the Fort Peck Tribes to water, located within or outside the external boundaries of the Fort Peck Indian Reservation, based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in Winters v. United States, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine"), or other law; or
(6) validate or invalidate any assertion of the existence, nonexistence, or extinguishment of any water right held or Indian water compact entered into by the Fort Peck Tribes or by any other Indian tribe or individual Indian under Federal or State law.

(b) Offset Against Claims.-- Any funds received by the Fort Peck Tribes pursuant to this Act shall be used to offset any claims for money damages against the United States by the Fort Peck Tribes, existing on the date of the enactment of this Act, for water rights based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in Winters v. United States, 207 U.S. 564 (1908), or other law.

**Sec. 9. [Authorization of Appropriations.]--**

(a) Assiniboine and Sioux Rural Water System.-- There are authorized to be appropriated-

(1) to the Bureau of Reclamation over a period of 10 fiscal years, $124,000,000 for the planning, design, and construction of the Assiniboine and Sioux Rural Water System; and
(2) to the Bureau of Indian Affairs such sums as are necessary for the operation and maintenance of the Assiniboine and Sioux Rural Water System.

(b) Dry Prairie Rural Water System.-- There is authorized to be appropriated, over a period of 10 fiscal years, $51,000,000 for the planning, design, and construction of the Dry Prairie Rural Water System.

(c) Cost Indexing.-- The funds authorized to be appropriated may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after October 1, 1998, as indicated by engineering cost indices applicable for the type of construction involved.

Approved October 27, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 624 (H.R. 1124):
House Report: No. 106-823, accompanying S. 624, Comm. on Resources, Sept. 7, 2000.
House Report: No. 106-824 accompanying H.R. 1124, Comm. on Resources, Sept. 7, 2000.
Senate Report: No. 106-198, Comm. on Energy and Natural Resources, Oct. 20, 1999.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Oct. 8, 1999.
House Bill, Aug. 30, 2000.
CONGRESSIONAL RECORD: Vol. 145 (1999):
Nov. 19, considered and passed Senate, Pg. S15173.
CONGRESSIONAL RECORD, Vol. 146 (2000):
Sept. 12, considered and passed House, amended, Pg. H7401.
Oct. 13, Senate concurred in House amendment, Pg. S10538.

October 30, 2000

# UPPER COLORADO AND SAN JUAN RIVER BASINS ENDANGERED FISH RECOVERY PROGRAMS

An Act to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins. (An act of October 30, 2000, Public Law 106-392, 114 Stat. 1602)

**[Section 1. Purpose.]--** The purpose of this Act is to authorize and provide funding for the Bureau of Reclamation to continue the implementation of the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins in order to accomplish the objectives of these programs within a currently established time schedule.

**Sec. 2. [Definitions]--** As used in this Act:

(1) The term "Recovery Implementation Programs" means the intergovernmental programs established pursuant to the 1988 Cooperative Agreement to implement the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River dated September 29, 1987, and the 1992 Cooperative Agreement to implement the San Juan River Recovery Implementation Program dated October 21, 1992, and as they may be amended by the parties thereto.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Upper Division States" means the States of Colorado, New Mexico, Utah, and Wyoming.

(4) The term "Colorado River Storage Project" or "storage project" means those dams, reservoirs, power plants, and other appurtenant project facilities and features authorized by and constructed in accordance with the Colorado River Storage Project Act (43 U.S.C. 620 et seq.).

(5) The term "capital projects" means planning, design, permitting or other compliance, pre-construction activities, construction, construction management, and replacement of facilities, and the acquisition of interests in land or water, as necessary to carry out the Recovery Implementation Programs.

(6) The term "facilities" includes facilities for the genetic conservation or propagation of the endangered fishes, those for the restoration of floodplain habitat or fish passage, those for control or supply of instream flows, and those for the removal or translocation of nonnative fishes.

(7) The term "interests in land and water" includes, but is not limited to, long-term leases and easements, and long-term enforcement, or other agreements protecting instream flows.

(8) The term "base funding" means funding for operation and maintenance of capital projects, implementation of recovery actions other than capital projects, monitoring and research to evaluate the need for or effectiveness of any recovery action, and program management, as necessary to carry out the Recovery Implementation Programs. Base funding also includes annual funding provided under the terms of the 1988 Cooperative Agreement and the 1992 Cooperative Agreement.

(9) The term "recovery actions other than capital projects" includes short-term leases and agreements for interests in land, water, and facilities; the reintroduction or augmentation of endangered fish stocks; and the removal, translocation, or other control of nonnative fishes.

(10) The term “depletion charge" means a one-time contribution in dollars per acre-foot to be paid to the United States Fish and Wildlife Service based on the average annual new depletion by each project.

**Sec. 3. [Authorization to Fund Recovery Programs.]--**

(a) Authorization of Appropriations for Federal Participation in Capital Projects.--

(1) There is hereby authorized to be appropriated to the Secretary, $46,000,000 to undertake capital projects to carry out the purposes of this Act. Such funds shall be considered a nonreimbursable Federal expenditure.

(2) The authority of the Secretary, acting through the Bureau of Reclamation, under this or any other provision of law to implement capital projects for the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin shall expire in fiscal year 2005 unless reauthorized by an Act of Congress.

(3) The authority of the Secretary to implement the capital projects for the San Juan River Basin Recovery Implementation Program shall expire in fiscal year 2007 unless reauthorized by an Act of Congress.

(b) Cost of Capital Projects.-- The total costs of the capital projects undertaken for the Recovery Implementation Programs receiving assistance under this Act shall not exceed $100,000,000 of which--

(1) costs shall not exceed $82,000,000 for the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin through fiscal year 2005; and

(2) costs shall not exceed $18,000,000 for the San Juan River Recovery Implementation Program through fiscal year 2007. The amounts set forth in this subsection shall be adjusted by the Secretary for inflation in each fiscal year beginning after the enactment of this Act.

(c) Non-Federal Contributions to Capital Projects.—

(1) The Secretary, acting through the Bureau of Reclamation, may accept contributed funds from the Upper Division States, or political subdivisions or organizations with the Upper Division States, pursuant to agreements that provide for the contributions to be used for capital projects costs. Such non-Federal contributions shall not exceed $17,000,000.

(2) In addition to the contribution described in paragraph (1), the Secretary of Energy, acting through the Western Area Power Administration, and the Secretary of the Interior, acting through the Bureau of Reclamation, may utilize power revenues collected pursuant to the Colorado River Storage Project Act to carry out the purposes of this subsection. Such funds shall be treated as reimbursable costs assigned to power for repayment under section 5 of the Colorado River Storage Project Act. This additional contribution shall not exceed $17,000,000. Such funds shall be considered a non-Federal contribution for the purposes of this Act.

The funding authorized by this paragraph over any 2-fiscal-year period shall be made available in amounts equal to the contributions for the same 2-fiscal-year period made by the Upper Division States pursuant to paragraph (1).

(3) The additional funding provided pursuant to paragraph (2) may be provided through loans from the Colorado Water Conservation Board Construction Fund (37-60-121 C.R.S.) to the Western Area Power Administration in lieu of funds which would otherwise be collected from power revenues and used for storage project repayments. The Western Area Power Administration is authorized to repay such loan or loans from power revenues

collected beginning in fiscal year 2012, subject to an agreement between the Colorado Water Conservation Board, the Western Area Power Administration, and the Bureau of Reclamation. The agreement and any future loan contracts that may be entered into by the Colorado Water Conservation Board, the Western Area Power Administration, and the Bureau of Reclamation shall be negotiated in consultation with Salt Lake City Area Integrated Projects Firm Power Contractors. The agreement and loan contracts shall include provisions designed to minimize impacts on electrical power rates and shall ensure that loan repayment to the Colorado Water Conservation Board, including principal and interest, is completed no later than September 30, 2057. The Western Area Power Administration is authorized to include in power rates such sums as are necessary to carry out this paragraph and paragraph (2).

(4) All contributions made pursuant to this subsection shall be in addition to the cost of replacement power purchased due to modifying the operation of the Colorado River Storage Project and the capital cost of water from Wolford Mountain Reservoir in Colorado. Such costs shall be considered as non-Federal contributions, not to exceed $20,000,000.

(d) Base Funding.--

(1) Beginning in the first fiscal year commencing after the date of the enactment of this Act, the Secretary may utilize power revenues collected pursuant to the Colorado River Storage Project Act for the annual base funding contributions to the Recovery Implementation Programs by the Bureau of Reclamation. Such funding shall be treated as nonreimbursable and as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Colorado River Storage Project Act.

(2) For the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River Basin, the contributions to base funding referred to in paragraph (1) shall not exceed $4,000,000 per year. For the San Juan River Recovery Implementation Program, such contributions shall not exceed $2,000,000 per year. The Secretary shall adjust such amounts for inflation in fiscal years commencing
after the enactment of this Act. The utilization of power revenues for annual base funding shall cease after the fiscal year 2011, unless reauthorized by Congress; except that power revenues may continue to be utilized to fund the operation and maintenance of capital projects and monitoring. No later than the end of fiscal year 2008, the Secretary shall submit a report on the utilization of power revenues for base funding to the appropriate Committees of the United States Senate and the House of Representatives. The Secretary shall also make a recommendation in such report regarding the need for continued base funding after fiscal year 2011 that may be required to fulfill the goals of the Recovery Implementation Programs. Nothing in this Act shall otherwise modify or amend existing agreements among participants regarding base funding and depletion charges for the Recovery Implementation Programs.

(3) The Western Area Power Administration and the Bureau of Reclamation shall maintain sufficient revenues in the Colorado River Basin Fund to meet their obligation to provide base funding in accordance with paragraph (2). If the Western Area Power Administration and the Bureau of Reclamation determine that the funds in the Colorado River Basin Fund will not be sufficient to meet the obligations of section 5(c)(1) of the Colorado River

Storage Project Act for a 3-year period, the Western Area Power Administration and the Bureau of Reclamation shall request appropriations to meet base funding obligations.

(e) Authority to Retain Appropriated Funds.-- At the end of each fiscal year any unexpended appropriated funds for capital projects under this Act shall be retained for use in future fiscal years. Unexpended funds under this Act that are carried over shall continue to be used to implement the capital projects needed for the Recovery Implementation Programs.

(f) Additional Authority.--The Secretary may enter into agreements and contracts with Federal and non-Federal entities, acquire and transfer interests in land, water, and facilities, and accept or give grants in order to carry out the purposes of this Act.

(g) Indian Trust Assets.-- The Congress finds that much of the potential water development in the San Juan River Basin and in the Duchesne River Basin (a subbasin of the Green River in the Upper Colorado River Basin) is for the benefit of Indian tribes and most of the federally designated critical habitat for the endangered fish species in the San Juan River Basin is on Indian trust lands, and 2\1/2\ miles of critical habitat on the Duchesne River is on Indian Trust Land. Nothing in this Act shall be construed to restrict the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, from funding activities or capital projects in accordance with the Federal Government's Indian trust responsibility.

(h) Termination of Authority.-- All authorities provided by this section for the respective Recovery Implementation Program shall terminate upon expiration of the current time period for the respective Cooperative Agreement referenced in section 2(1) unless, at least 1 year prior to such expiration, the time period for the respective Cooperative Agreement is extended to conform with this Act.

**Sec. 4. [Effect on Reclamation Law.]--** Specifically with regard to the acreage limitation provisions of Federal reclamation law, any action taken pursuant to or in furtherance of this title will not--

(1) be considered in determining whether a district as defined in section 202(2) of the Reclamation Reform Act of 1982 (43 U.S.C. 390b) has discharged its obligation to repay the construction cost of project facilities used to make irrigation water available for delivery to land in the district;

(2) serve as the basis for reinstating acreage limitation provisions in a district that has completed payment of its construction obligations; or

(3) serve as the basis for increasing the construction repayment obligation of the district and thereby extending the period during which the acreage limitation provisions will apply.

Approved October 30, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2348 (S. 2239):
HOUSE REPORT: No. 106-791, Comm. on Resources, July 25, 2000.
SENATE REPORT: No. 106-403, accompanying S. 2239, Comm. on Energy and Natural Resources, Sept. 7, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Oct. 20, 2000.
Final Bill, Oct. 20, 2000.
CONGRESSIONAL RECORD, Vol. 145 (1999):
June 24, 1999, Extension of Remarks, Pg. E1400.
CONGRESSIONAL RECORD, Vol. 146 (2000):
July 25, considered and passed House, Pg. H6953.
Oct. 13, considered and passed Senate, Pg. S10527.
BUREAU OF RECLAMATION TESTIMONY

Nov. 3, 2005 (H.R. 3153) Endangered Fish Recovery Implementation Programs.
July 8, 2008 (S. 3189) Endangered Fish Recovery
July 23, 2009 (S. 1453) BOR Fish Recovery Programs Reauthorization Act.
June 23, 2011, (S. 1224) Endangered Fish Recovery Program Improvement Act
Dec. 6, 2017, (H.R. 4465) Endangered Fish Recovery Programs Extension Act of 2017
Nov. 3, 2005 (H.R. 3153) Endangered Fish Recovery Implementation Programs.

November 7, 2000

# TIJUANA RIVER VALLEY ESTUARIES AND BEACH CLEANUP ACT OF 2000

**[Extracts from]** An Act to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes. (An act of November 7, 2000, Public Law 106-457, 114 Stat. 1957)

* * * * *

## TITLE VIII--TIJUANA RIVER VALLEY ESTUARY AND BEACH

**[Section 801. Short Title.]**-- This title may be cited as the "Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000".

**Sec. 802. [Purpose.]**-- The purpose of this title is to authorize the United States to take actions to address comprehensively the treatment of sewage emanating from the Tijuana River area, Mexico, that flows untreated or partially treated into the United States causing significant adverse public health and environmental impacts.

**Sec. 803. [Definitions.]**-- In this title, the following definitions apply:

(1) Administrator.-- The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Commission.-- The term "Commission" means the United States section of the International Boundary and Water Commission, United States and Mexico.

(3) IWTP.-- The term "IWTP" means the South Bay International Wastewater Treatment Plant constructed under the provisions of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), section 510 of the Water Quality Act of 1987 (101 Stat. 80-82), and Treaty Minutes to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944.

(4) Secondary treatment.--The term "secondary treatment" has the meaning such term has under the Federal Water Pollution Control Act and its implementing regulations.

(5) Secretary.-- The term "Secretary" means the Secretary of State.

(6) Mexican facility.-- The term "Mexican facility" means a proposed public-private wastewater treatment facility to be constructed and operated under this title within Mexico for the purpose of treating sewage flows generated within Mexico, which flows impact the surface waters, health, and safety of the United States and Mexico.

(7) MGD.--The term "mgd" means million gallons per day.

**Sec. 804. [Actions to be Taken by the Commission and the Administrator.]**--

(a) Secondary Treatment.--

(1) In general.-- Subject to the negotiation and conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 1005 of this Act, and notwithstanding section 510(b)(2) of the Water Quality Act of 1987 (101 Stat. 81), the Commission is authorized and directed to provide for the secondary treatment of a total of not more than 50 mgd in Mexico--

(A) of effluent from the IWTP if such treatment is not provided for at a facility in the United States; and

(B) of additional sewage emanating from the Tijuana River area, Mexico.

(2) Additional authority.--Subject to the results of the comprehensive plan developed under subsection (b) revealing a need for additional secondary treatment capacity in the San Diego-Tijuana border region and recommending the provision of such capacity in Mexico,

the Commission may provide not more than an additional 25 mgd of secondary treatment capacity in Mexico for treatment described in paragraph (1).

(b) Comprehensive Plan.--Not later than 24 months after the date of enactment of this Act, the Administrator shall develop a comprehensive plan with stakeholder involvement to address the transborder sanitation problems in the San Diego-Tijuana border region. The plan shall include, at a minimum--

(1) an analysis of the long-term secondary treatment needs of the region;

(2) an analysis of upgrades in the sewage collection system serving the Tijuana area, Mexico; and

(3) an identification of options, and recommendations for referred options, for additional sewage treatment capacity for future flows emanating from the Tijuana River area, Mexico.

(c) Contract.--

(1) In general.--Subject to the availability of appropriations to carry out this subsection and notwithstanding any provision of Federal procurement law, upon conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 5, the Commission may enter into a fee-for-services contract with the owner of a Mexican facility in order to carry out the secondary treatment requirements of subsection (a) and make payments under such contract.

(2) Terms.--Any contract under this subsection shall provide, at a minimum, for the following:

(A) Transportation of the advanced primary effluent from the IWTP to the Mexican facility for secondary treatment.

(B) Treatment of the advanced primary effluent from the IWTP to the secondary treatment level in compliance with water quality laws of the United States, California, and Mexico.

(C) Return conveyance from the Mexican facility of any such treated effluent that cannot be reused in either Mexico or the United States to the South Bay Ocean Outfall for discharge into the Pacific Ocean in compliance with water quality laws of the United States and California.

(D) Subject to the requirements of subsection (a), additional sewage treatment capacity that provides for advanced primary and secondary treatment of sewage described in subsection (a)(1)(B) in addition to the capacity required to treat the advanced primary effluent from the IWTP. (E) A contract term of 20 years.

(F) Arrangements for monitoring, verification, and enforcement of compliance with United States, California, and Mexican water quality standards.

(G) Arrangements for the disposal and use of sludge, produced from the IWTP and the Mexican facility, at a location or locations in Mexico.

(H) Maintenance by the owner of the Mexican facility at all times throughout the term of the contract of a 20 percent equity position in the capital structure of the Mexican facility.

(I) Payment of fees by the Commission to the owner of the Mexican facility for sewage treatment services with the annual amount payable to reflect all agreed upon costs associated with the development, financing, construction, operation, and maintenance of the Mexican facility, with such annual payment to maintain the owner's 20 percent equity position throughout the term of the contract

(J) Provision for the transfer of ownership of the Mexican facility to the United States, and provision for a cancellation fee by the United States to the owner of the Mexican facility, if the Commission fails to perform its obligations under the contract. The cancellation fee shall be in amounts declining over the term of the contract anticipated to be sufficient to repay construction debt and other amounts due to the owner that remain unamortized due to early termination of the contract.

(K) Provision for the transfer of ownership of the Mexican facility to the United States, without a cancellation fee, if the owner of the Mexican facility fails to perform the obligations of the owner under the contract.

(L) The use of competitive procedures, consistent with title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), by the owner of the Mexican facility in the procurement of property or services for the engineering, construction, and operation and maintenance of the Mexican facility.

(M) An opportunity for the Commission to review and approve the selection of contractors providing engineering, construction, and operation and maintenance for the Mexican facility.

(N) The maintenance by the owner of the Mexican facility of all records (including books, documents, papers, reports, and other materials) necessary to demonstrate compliance with the terms of this section and the contract.

(O) Access by the Inspector General of the Department of State or the designee of the Inspector General for audit and examination of all records maintained pursuant to subparagraph (N) to facilitate the monitoring and evaluation required under subsection (d).

(P) Offsets or credits against the payments to be made by the Commission under this section to reflect an agreed upon percentage of payments that the owner of the Mexican facility receives through the sale of water treated by the facility.

(d) Implementation.--

(1) In general.-- The Inspector General of the Department of State shall monitor the implementation of any contract entered into under this section and evaluate the extent to which the owner of the Mexican facility has met the terms of this section and fulfilled the terms of the contract.

(2) Report.-- The Inspector General shall transmit to Congress a report containing the evaluation under paragraph (1) not later than 2 years after the execution of any contract with the owner of the Mexican facility under this section, 3 years thereafter, and periodically after the second report under this paragraph.

**Sec. 805. [Negotiation of New Treaty Minute.]--**

(a) Congressional Statement.-- In light of the existing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Secretary is requested to give the highest priority to the negotiation and execution of a new Treaty Minute, or a modification of Treaty Minute 283, consistent with the provisions of this title, in order that the other provisions of this title to address such pollution may be implemented as soon as possible.

(b) Negotiation.--

(1) Initiation.-- The Secretary is requested to initiate negotiations with Mexico, within 60 days after the date of enactment of this Act, for a new Treaty Minute or a modification of Treaty Minute 283 consistent with the provisions of this title.

(2) Implementation.-- Implementation of a new Treaty Minute or of a modification of Treaty Minute 283 under this title shall be subject to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
(3) Matters to be addressed.-- A new Treaty Minute or a modification of Treaty Minute 283 under paragraph (1) should address, at a minimum, the following:
(A) The siting of treatment facilities in Mexico and in the United States.
(B) Provision for the secondary treatment of effluent from the IWTP at a Mexican facility if such treatment is not provided for at a facility in the United States.
(C) Provision for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, in addition to the treatment capacity for the advanced primary effluent from the IWTP at the Mexican facility.
(D) Provision for any and all approvals from Mexican authorities necessary to facilitate water quality verification and enforcement at the Mexican facility.
(E) Any terms and conditions considered necessary to allow for use in the United States of treated effluent from the Mexican facility, if there is reclaimed water which is surplus to the needs of users in Mexico and such use is consistent with applicable United States and California law.
(F) Any other terms and conditions considered necessary by the Secretary in order to implement the provisions of this title.

**Sec. 806. [Authorization of Appropriations.]--** There is authorized to be appropriated a total of $156,000,000 for fiscal years 2001 through 2005 to carry out this title. Such sums shall remain available until expended.

* * * * *

Approved November 7, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 835
House Report: No. 106-561, Pt. 1, Comm. on Transportation and Infrastructure, April 4, 1999.
House Report No. 106-995, Comm. of Conference, Oct. 24, 2000.
Senate Report: No. 106-189, Comm. on Environment and Public Works, Oct. 14, 1999.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Oct. 13, 1999.
CONGRESSIONAL RECORD Vol. 145 (1999):
Sponsor Introductory Report, April 20, 1999, S3914.
CONGRESSIONAL RECORD Vol. 146 (2000):
House Consideration, Sept. 12, 2000, Pg. H7482.
Senate Passed, Oct. 23, 2000, Pg. S10852
House Passed, Oct. 25, 2000, Pg. H10856.

November 7, 2000

## AMENDMENT TO THE COLORADO RIVER BASIN SALINITY CONTROL ACT

An Act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner. (An act of November 7, 2000, Public Law 106-459, 14 Stat 1987)

**[Section 1. Amendment of the Colorado River Basin Salinity Control Act.]--** Section 208(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1598(c)) is amended-- (1) in the first sentence—

(A) by striking "$75,000,000 for subsection 202(a)" and inserting "$175,000,000 for section 202(a)"; and

(B) by striking "paragraph 202(a)(6)" and inserting "paragraph (6) of section 202(a)"; and (2) in the second sentence, by striking "paragraph 202(a)(6)" and inserting "section 202(a)(6)".

**Sec. 2. [Report.]--** The Secretary of the Interior shall prepare a report on the status of implementation of the comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management directed by section 203(b)(3) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1593). The report shall provide specific information on individual projects and funding allocation. The report shall be transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives no later than June 30, 2000.

Approved November 7, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--S. 1211:
House Report: No. 106-814, Comm. on Resources, Sept. 6, 2000.
Senate REport: No. 106-175, Comm. on Energy and Natural Resources, Oct. 6, 1999.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 7, 2000.
Senate Bill, Oct. 5, 1999.
CONGRESSIONAL RECORD: Vol. 145 (1999):
Nov. 19, considered and passed Senate, Pg. S15166.
CONGRESSIONAL RECORD Vol. 146 (2000):
Oct. 23, considered and passed House, H10496.

November 7, 2000

# HOOVER DAM MISCELLANEOUS SALES ACT

An Act to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund. (An act of November 7, 2000, Public Law 106-461, 114 Stat. 1989)

**[Section 1. Short Title.]--** This Act may be cited as the "Hoover Dam Miscellaneous Sales Act".

**Sec. 2. [Findings.]-- Congress finds** that--

(1) the sale and distribution of general public information about the use of public land and water areas for recreation, fish, wildlife, and other purposes serve significant public benefits;

(2) publications and other materials educate the public and provide general information about Bureau of Reclamation programs and projects;

(3) in 1997, more than 1,000,000 visitors, including 300,000 from foreign countries, toured the Hoover Dam;

(4) hundreds of thousands of additional visitors stopped to view the dam;

(5) visitors often ask to purchase maps, publications, and other items to enhance their experience or serve educational purposes;

(6) in many cases the Bureau of Reclamation is the sole source of those items;

(7) the Bureau is in a unique position to fulfill public requests for those items; and

(8) as a public agency, the Bureau should be responsive to the public by having appropriate items available for sale.

**Sec. 3. [Purposes.]--** The purposes of this Act are--

(1) to authorize the Secretary of the Interior to offer for sale to members of the public that visit the Hoover Dam Visitor Center educational materials and memorabilia; and

(2) to use revenue from those sales to repay the costs relating to construction of the Hoover Dam Visitor Center.

**Sec. 4. [Authority to Conduct Sales.]--** With respect to the Hoover Dam, the Secretary of the Interior, acting through the Commissioner of Reclamation, may--

(1) conduct sales of--

(A) materials generated by the Bureau of Reclamation such as posters, maps, brochures, photographs, and similar publications, videotapes, and computer information discs that are related to programs or projects of the Bureau; and

(B) memorabilia and other commemorative items that depict programs or projects of the Bureau;

(2) convert unneeded property or scrap material into Bureau memorabilia for sale purposes; and

(3) enter into agreements with nonprofit organizations, other Federal agencies, State and local governments, and commercial entities for--

(A) the production or sale of items described in paragraphs (1) and (2); and

(B) the sale of publications described in paragraph (1).

**Sec. 5. [Costs and Revenues.]--** Costs.-- All costs incurred by the Bureau of Reclamation under this Act shall be paid from the Colorado River Dam fund established by section 2 of the Act of December 21, 1928 (43 U.S.C. 617a). (b) Revenues.--

(1) Use for repayment of sales costs.-- All revenues collected by the Bureau of Reclamation under this Act shall be credited to the Colorado River Dam fund to remain

available, without further Act of appropriation, to pay costs associated with the production and sale of items in accordance with section 4.

(2) Use for repayment of construction costs.-- All revenues collected by the Bureau of Reclamation under this Act that are not needed to pay costs described in paragraph (1) shall be transferred annually to the general fund of the Treasury in repayment of costs relating to construction of the Hoover Dam Visitor Center.

Approved November 7, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1275:
House Report: No. 106-808, Comm. on Resources, Sept 6, 2000.
Senate Report: No. 106-195, Comm. on Energy and Natural Resources, Oct 18, 1999.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 26, 2000.
Senate Bill, Oct. 14, 1999.
CONGRESSIONAL RECORD: Vol. 145 (1999): Nov. 19, considered and passed Senate, Pg. S15173.
CONGRESSIONAL RECORD, Vol. 146 (2000): Oct. 23, considered and passed House, Pg. H10496.

November 9, 2000

## SOLANO COUNTY WATER AGENCY, CALIFORNIA

An Act to authorize the Secretary of the Interior to enter into contracts with the Solano County Water Agency, California, to use Solano Project facilities for impounding, storage, and carriage of non-project water for domestic, municipal, industrial, and other beneficial purposes. An act of November 9, 2000, Public Law 106-467, 114 Stat. 2026)

**[Section 1. Authorization.]**-- The Secretary of the Interior is authorized to enter into contracts with the Solano County Water Agency, or any of its member unit contractors for water from the Solano Project, California, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for--

(1) the impounding, storage, and carriage of non-project water for domestic, municipal, industrial, and other beneficial purposes, using any facilities associated with the Solano Project, California; and

(2) the exchange of water among Solano Project contractors, for the purposes set forth in paragraph (1), using facilities associated with the Solano Project, California.

**Sec. 2. [Limitation.]**-- The authorization under section 1 shall be limited to the use of that portion of the Solano Project facilities downstream of Mile 26 of the Putah South Canal (as that canal is depicted on the official maps of the Bureau of Reclamation), which is below the diversion points on the Putah South Canal utilized by the City of Fairfield for delivery of Solano Project water.

Approved November 9, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 1235:
House Report: No. 106-426, Comm. on Resources, Nov. 1, 1999.
Senate Report: No. 106-433, Comm. on Energy and Natural Resources, Sept. 28, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Oct. 29, 1999.
Cost Estimate, Senate Bill, Sept. 26, 2000.
Pay-As-You-Go Estimate, Final Bill, Nov. 1, 2000.
CONGRESSIONAL RECORD: Vol. 145 (1999): Nov. 1, considered and passed House, Pg. H11161.
CONGRESSIONAL RECORD: Vol. 146 (2000): Oct. 27, considered and passed, Senate, Pg.S11276 .

November 9, 2000

# KLAMATH BASIN WATER SUPPLY ENHANCEMENT ACT OF 2000

An Act to authorize the Bureau of Reclamation to conduct certain feasibility studies to augment water supplies for the Klamath Project, Oregon and California, and for other purposes. An act of November 9, 2000, Public Law 106-498, 114 Stat. 2221)

**[Section 1. Short Title.]--** This Act may be cited as the "Klamath Basin Water Supply Enhancement Act of 2000".

**Sec. 2. [Authorization to Conduct Feasibility Studies.]--** In order to help meet the growing water needs in the Klamath River Basin, to improve water quality, to facilitate the efforts of the State of Oregon to resolve water rights claims in the Upper Klamath River Basin including facilitation of Klamath tribal water rights claims, and to reduce conflicts over water between the Upper and Lower Klamath Basins, the Secretary of the Interior (hereafter referred to as the "Secretary") is authorized and directed, in consultation with affected State, local and tribal interests, stakeholder groups and the interested public, to engage in feasibility studies of the following proposals related to the Upper Klamath Basin and the Klamath Project, a Federal reclamation project in Oregon and California:

(1) Increasing storage capacity, and/or the yield of the Klamath Project facilities while improving water quality, consistent with the protection of fish and wildlife.

(2) The potential for development of additional Klamath Basin groundwater supplies to improve water quantity and quality, including the effect of such groundwater development on nonproject lands, groundwater and surface water supplies, and fish and wildlife.

(3) The potential for further innovations in the use of existing water resources, or market-based approaches, in order to meet growing water needs consistent with State water law.

**Sec. 3. [Additional Studies.]--**

(a) Nonproject Lands.-- The Secretary may enter into an agreement with the Oregon Department of Water Resources to fund studies relating to the water supply needs of nonproject lands in the Upper Klamath Basin.

(b) Surveys.-- To further the purposes of this Act, the Secretary is authorized to compile information on native fish species in the Upper Klamath River Basin, upstream of Upper Klamath Lake. Wherever possible, the Secretary should use data already developed by Federal agencies and other stakeholders in the Basin.

(c) Hydrologic Studies.-- The Secretary is directed to complete ongoing hydrologic surveys in the Klamath River Basin currently being conducted by the United States Geological Survey.

(d) Reporting Requirements.-- The Secretary shall submit the findings of the studies conducted under section 2 and section 3(a) of this Act to the Congress within 90 days of each study's completion, together with any recommendations for projects.

**Sec. 4. [Limitation.]--** Activities funded under this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplementary thereto.

**Sec. 5. [Water Rights.]--** Nothing in this Act shall be construed to--

(1) create, by implication or otherwise, any reserved water right or other right to the use of water;

(2) invalidate, preempt, or create any exception to State water law or an interstate compact governing water;

(3) alter the rights of any State to any appropriated share of the waters of anybody or surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;
(4) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or
(5) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.
**Sec. 6. [Authorization of Appropriations.]--** There are authorized such sums as necessary to carry out the purposes of this Act. Activities conducted under this Act shall be nonreimbursable and nonreturnable.

Approved November 9, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2882:
Senate Report: No. 106-489, Comm. on Energy and Natural Resources, Oct. 4, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Oct. 3, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
Oct. 13, considered and passed Senate, S10529.
Oct. 23, considered and passed House, H10518.

November 9, 2000

## SALMON CREEK WATERSHED RESOURCE STUDY

An Act to authorize the Secretary of the Interior to conduct a study to investigate opportunities to better manage the water resources in the Salmon Creek watershed of the Upper Columbia River. (An act of November 9, 2000, Public Law 106-499, 114 Stat. 2223)

**[Section 1. Salmon Creek Watershed, Washington, Water Management Study.]--**
(a) In General.-- The Secretary of the Interior may conduct a study to investigate the opportunities to better manage the water resources in the Salmon Creek Watershed, a tributary to the Upper Columbia River system, Okanagoan County, Washington, so as to restore and enhance fishery resources (especially the endangered Upper Columbia Spring Chinook and Steelhead), while maintaining or improving the availability of water supplies for irrigation practices vital to the economic well-being of the county.
(b) Purpose.-- The purpose of the study under subsection (a) shall be to derive the benefits of and further the objectives of the comprehensive, independent study commissioned by the Confederated Tribes of the Colville Reservation and the Okanagoan Irrigation District, which provides a credible basis for pursuing a course of action to simultaneously achieve fish restoration and improved irrigation conservation and efficiency.
(c) Cost Share.-- The Federal Government's cost share for the feasibility study shall not exceed 50 percent.

Approved November 9, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--S. 2951:
Senate Report: No. 106-431, Comm. on Energy and Natural Resources, Sept. 28, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Sept. 28, 2000
CONGRESSIONAL RECORD, Vol. 146 (2000):
Oct. 13, considered and passed Senate, Pg. S10527.
Oct. 23, considered and passed House, Pg. H10519.

December 11, 2000

# WATER RESOURCES DEVELOPMENT ACT OF 2000

**[Extracts from]** An Act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. (An act of December 11, 2000, Public Law 106-541, 114 Stat. 2572)

## TITLE I--WATER RESOURCES PROJECTS

**[Section 101. Project Authorizations.]--**

* * * * *

(b) Projects Subject to Final Report.— The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed not later than December 31, 2000:

* * * * *

(3) **Rio de flag, Flagstaff, Arizona**.--The project for flood damage reduction, Rio de Flag, Flagstaff, Arizona, at a total cost of $24,072,000, with an estimated Federal cost of $15,576,000 and an estimated non-Federal cost of $8,496,000.

(4) **Tres Rios, Arizona**.-- The project for ecosystem restoration, Tres Rios, Arizona, at a total cost of $99,320,000, with an estimated Federal cost of $62,755,000 and an estimated non-Federal cost of $36,565,000.

(5) **Los Angeles Harbor, California**.-- The project for navigation, Los Angeles Harbor, California, at a total cost of $153,313,000, with an estimated Federal cost of $43,735,000 and an estimated non-Federal cost of $109,578,000.

(6) **Murrieta Creek, California.**-- The project for flood damage reduction and ecosystem restoration, Murrieta Creek, California, described as alternative 6, based on the District Engineer's Murrieta Creek feasibility report and environmental impact statement dated October 2000, at a total cost of $89,846,000, with an estimated Federal cost of $25,556,000 and an estimated non-Federal cost of $64,290,000.

(7) **Pine Flat Dam, California**.-- The project for ecosystem restoration, Pine Flat Dam, California, at a total cost of $34,000,000, with an estimated Federal cost of $22,000,000 and an estimated non-Federal cost of $12,000,000.

(8) **Santa Barbara Streams, Lower Mission Creek, California**.-- The project for flood damage reduction, Santa Barbara streams, Lower Mission Creek, California, at a total cost of $18,300,000, with an estimated Federal cost of $9,200,000 and an estimated non-Federal cost of $9,100,000.

(9) **Upper Newport Bay, California**.-- The project for ecosystem restoration, Upper Newport Bay, California, at a total cost of $32,475,000, with an estimated Federal cost of $21,109,000 and an estimated non-Federal cost of $11,366,000. (10) **Whitewater River Basin, California.**-- The project for flood damage reduction, Whitewater River basin, California, at a total cost of $28,900,000, with an estimated Federal cost of $18,800,000 and an estimated non-Federal cost of $10,100,000.

* * * * *

(19) **Antelope Creek, Lincoln, Nebraska.**-- The project for flood damage reduction, Antelope Creek, Lincoln, Nebraska, at a total cost of $46,310,000, with an estimated Federal cost of $23,155,000 and an estimated non-Federal cost of $23,155,000.

(20) **Sand Creek Watershed, Wahoo, Nebraska**.-- The project for ecosystem restoration and flood damage reduction, Sand Creek watershed, Wahoo, Nebraska, at a total cost of $29,840,000, with an estimated Federal cost of $16,870,000 and an estimated non-Federal cost of $12,970,000.

(21) **Western Sarpy and Clear Creek, Nebraska**.-- The project for flood damage reduction, Western Sarpy and Clear Creek, Nebraska, at a total cost of $15,643,000, with an estimated Federal cost of $9,518,000 and an estimated non-Federal cost of $6,125,000.

* * * * *

(26) **Duwamish/Green, Washington**.-- The project for ecosystem restoration, Duwamish/Green, Washington, at a total cost of $112,860,000, with an estimated Federal cost of $73,360,000 and an estimated non-Federal cost of $39,500,000.

(27) **Stillagumaish River Basin, Washington**.-- The project for ecosystem restoration, Stillagumaish River Basin, Washington, at a total cost of $23,590,000, with an estimated Federal cost of $15,680,000 and an estimated non-Federal cost of $7,910,000.

(28) **Jackson Hole, Wyoming**.--

(A) In general.--The project for ecosystem restoration, Jackson Hole, Wyoming, at a total cost of $52,242,000, with an estimated Federal cost of $33,957,000 and an estimated non-Federal cost of $18,285,000.

(B) Non-federal share.--

(i) In general.-- The Non-Federal share of the costs of the project may be provided in cash or in the form of in-kind services or materials.

(ii) Credit.--The Secretary shall credit toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest before the date of execution of a cooperation agreement for the project if the Secretary determines that the work is integral to the project.

**Sec. 102. [Small Projects for Flood Damage Reduction.]--**

(a) In General.-- The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

* * * * *

(2) **Anaverde Creek, Palmdale, California**.--Project for flood damage reduction, Anaverde Creek, Palmdale, California.

(3) **Castaic Creek, Old Road Bridge, Santa Clarita, California**.-- Project for flood damage reduction, Castaic Creek, Old Road bridge, Santa Clarita, California.

(4) **Santa Clara River, Old Road Bridge, Santa Clarita, California**.-- Project for flood damage reduction, Santa Clara River, Old Road bridge, Santa Clarita, California.

(3) **Castaic Creek, Old Road Bridge, Santa Clarita, California**.-- Project for flood damage reduction, Castaic Creek, Old Road bridge, Santa Clarita, California.

(4) **Santa Clara River, Old Road Bridge, Santa Clarita, California**.-- Project for flood damage reduction, Santa Clara River, Old Road bridge, Santa Clarita, California.

(5) **Weiser River, Idaho**.-- Project for flood damage reduction, Weiser River, Idaho.

* * * * *

(40) **Bear Creek and tributaries, Medford, Oregon**.-- Project for flood damage reduction, Bear Creek and tributaries, Medford, Oregon.

(b) **Magpie Creek, Sacramento County, California**.—In formulating the project for Magpie Creek, California, authorized by section 102(a)(4) of the Water Resources Development Act of 1999 (113 Stat. 281) to be carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the Secretary may consider benefits from the full utilization of existing improvements at McClellan Air Force Base that would result from the project after conversion of the base to civilian use.

* * * * *

**Sec. 106. [Small Projects for Aquatic Ecosystem Restoration.]**

(a) In General.-- The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330):

(1) **Arkansas River, Pueblo, Colorado**.--Project for aquatic ecosystem restoration, Arkansas River, Pueblo, Colorado.

(2) **Hayden Diversion Project, Yampa River, Colorado**.-- Project for aquatic ecosystem restoration, Hayden Diversion Project, Yampa River, Colorado.

* * * * *

(31) **Central Amazon Creek, Eugene, Oregon**.-- Project for aquatic ecosystem restoration, Central Amazon Creek, Eugene, Oregon.

(32) **Eugene Millrace, Eugene, Oregon**.-- Project for aquatic ecosystem restoration, Eugene Millrace, Eugene, Oregon.

(33) **Bear Creek Watershed, Medford, Oregon**.-- Project for aquatic ecosystem restoration, Bear Creek watershed, Medford, Oregon.

(34) **Lone Pine and Lazy Creeks, Medford, Oregon**.-- Project for aquatic ecosystem restoration, Lone Pine and Lazy Creeks, Medford, Oregon.

(35) **Roslyn Lake, Oregon**.-- Project for aquatic ecosystem restoration, Roslyn Lake, Oregon.

* * * * *

(b) **Salmon River, Idaho**.--The Secretary may credit toward the non-Federal share of the cost of the project for aquatic ecosystem restoration, Salmon River, Idaho, to be carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) the cost of work (consisting of surveys, studies, and development of technical data) carried out by the non-Federal interest if the Secretary determines that the work is integral to the project.

* * * * *

**Sec. 109. [Small Project for Mitigation of Shore Damage.]--** The Secretary shall conduct a study of shore damage at Puget Island, Columbia River, Washington, to determine if the damage is the result of the project for navigation, Columbia River, Washington, authorized by the first section of the Rivers and Harbors Appropriations Act of June 13, 1902 (32 Stat. 369), and, if the Secretary determines that the damage is the result of the project for navigation and that a project to mitigate the damage is appropriate, the Secretary may carry out the project to mitigate the damage under section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i).

* * * * *

**Sec. 111. [Disposal of Dredged Material on Beaches.]--** Section 217 of the Water Resources Development Act of 1999 (113 Stat. 294) is amended by adding at the end the following: "(f) Fort Canby State Park, Benson Beach, Washington.-- The Secretary may design and construct a

shore protection project at Fort Canby State Park, Benson Beach, Washington, including beneficial use of dredged material from a Federal navigation project under section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426(j) or section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).".

**Sec. 112. [Petaluma River, Petaluma, California.]--**

(a) In General.-- The Secretary shall carry out the Petaluma River project, at the city of Petaluma, Sonoma County, California, to provide a 100-year level of flood protection to the city in accordance with the detailed project report of the San Francisco District Engineer, dated March 1995, at a total cost of $32,227,000.

(b) Reimbursement.-- The Secretary shall reimburse the non-Federal interest for any project costs that the non-Federal interest has incurred in excess of the non-Federal share of project costs, regardless of the date on which the costs were incurred.

(c) Cost Sharing.-- For purposes of reimbursement under subsection (b), cost sharing for work performed on the project before the date of enactment of this Act shall be determined in accordance with section 103(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a)).

**TITLE II--GENERAL PROVISIONS**

**Sec. 201. [Cooperation Agreements with Counties.]--** Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(a)) is amended in the second sentence-- (1) by striking “State legislative"; (2) by striking “State constitutional" and inserting “constitutional"; and (3) by inserting before the period at the end the following: “of the State or a political subdivision of the State".

**Sec. 202. [Watershed and River Basin Assessments.]--** Section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164) is amended to read as follows:

“SEC. 729. WATERSHED AND RIVER BASIN ASSESSMENTS.

“(a) In General.--The Secretary may assess the water resources needs of river basins and watersheds of the United States, including needs relating to—

“(1) ecosystem protection and restoration;

“(2) flood damage reduction;

“(3) navigation and ports;

“(4) watershed protection;

“(5) water supply; and

“(6) drought preparedness.

“(b) Cooperation.-- An assessment under subsection (a) shall be carried out in cooperation and coordination with—

“(1) the Secretary of the Interior;

“(2) the Secretary of Agriculture;

“(3) the Secretary of Commerce;

“(4) the Administrator of the Environmental Protection Agency; and

“(5) the heads of other appropriate agencies.

“(c) Consultation.-- In carrying out an assessment under subsection (a), the Secretary shall consult with Federal, tribal, State, interstate, and local governmental entities.

“(d) Priority River Basins and Watersheds.-- In selecting river basins and watersheds for assessment under this section, the Secretary shall give priority to—

“(1) the Delaware River basin;

“(2) the Kentucky River basin;

"(3) the Potomac River basin;
"(4) the Susquehanna River basin; and
"(5) the Willamette River basin.

"(e) Acceptance of Contributions.--In carrying out an assessment under subsection (a), the Secretary may accept contributions, in cash or in kind, from Federal, tribal, State, interstate, and local governmental entities to the extent that the Secretary determines that the contributions will facilitate completion of the assessment.

"(f) Cost-Sharing Requirements.—

"(1) Non-federal share.--The Non-Federal share of the costs of an assessment carried out under this section shall be 50 percent.

"(2) Credit.—

"(A) In general.--Subject to subparagraph (B), the Secretary may credit toward the non-Federal share of an assessment under this section the cost of services, materials, supplies, or other in-kind contributions provided by the non-Federal interests for the assessment.

"(B) Maximum amount of credit.--The credit under subparagraph (A) may not exceed an amount equal to 25 percent of the costs of the assessment.

"(g) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $15,000,000.".

**Sec. 203. [Tribal Partnership Program.]--**

(a) Definition of Indian Tribe.-- In this section, the term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) Program.--

(1) In general.--In cooperation with Indian tribes and the heads of other Federal agencies, the Secretary may study and determine the feasibility of carrying out water resources development projects that--

(A) will substantially benefit Indian tribes; and

(B) are located primarily within Indian country (as defined in section 1151 of title 18, United States Code) or in proximity to Alaska Native villages.

(2) Matters to be studied.-- A study conducted under paragraph (1) may address--

(A) projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources; and

(B) such other projects as the Secretary, in cooperation with Indian tribes and the heads of other Federal agencies, determines to be appropriate.

(c) Consultation and Coordination with Secretary of the Interior.--

(1) In general.-- In recognition of the unique role of the Secretary of the Interior concerning trust responsibilities with Indian tribes and in recognition of mutual trust responsibilities, the Secretary shall consult with the Secretary of the Interior concerning studies conducted under subsection (b).

(2) Integration of activities.-- The Secretary shall--

(A) integrate civil works activities of the Department of the Army with activities of the Department of the Interior to avoid conflicts, duplications of effort, or unanticipated adverse effects on Indian tribes; and

(B) consider the authorities and programs of the Department of the Interior and other Federal agencies in any recommendations concerning carrying out projects studied under subsection (b).

(d) Cost Sharing.--

(1) Ability to pay.--

(A) In general.-- Any cost-sharing agreement for a study under subsection (b) shall be subject to the ability of the non-Federal interest to pay.

(B) Use of procedures.-- The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

(2) Credit.-- The Secretary may credit toward the non-Federal share of the costs of a study under subsection (b) the cost of services, studies, supplies, or other in-kind contributions provided by the non-Federal interest if the Secretary determines that the services, studies, supplies, and other in-kind contributions will facilitate completion of the study.

(e) Authorization of Appropriations.-- There is authorized to appropriated to carry out subsection (b) $5,000,000 for each of fiscal years 2002 through 2006, of which not more than $1,000,000 may be used with respect to any 1 Indian tribe.

**Sec. 204. [Ability to Pay.]--** Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended--

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) In general.--Any cost-sharing agreement under this section for a feasibility study, or for construction of an environmental protection and restoration project, a flood control project, a project for navigation, storm damage protection, shoreline erosion, hurricane protection, or recreation, or an agricultural water supply project, shall be subject to the ability of the non-Federal interest to pay.

"(2) Criteria and procedures.-- The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with criteria and procedures in effect under paragraph (3) on the day before the date of enactment of the Water Resources Development Act of 2000; except that such criteria and procedures shall be revised, and new criteria and procedures shall be developed, not later than 180 days after such date of enactment to reflect the requirements of such paragraph (3)."; and

(2) in paragraph (3)—

(A) by inserting "and" after the semicolon at the end of subparagraph(A)(ii);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

**Sec. 205. [Property Protection Program.]--**

(a) In General.-- The Secretary may carry out a program to reduce vandalism and destruction of property at water resources development projects under the jurisdiction of the Department of the Army.

(b) Provision of Rewards.-- In carrying out the program, the Secretary may provide rewards (including cash rewards) to individuals who provide information or evidence leading to the arrest and prosecution of individuals causing damage to Federal property.

(c) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $500,000 for fiscal year 2001 and each fiscal year thereafter.

**Sec. 206. [National Recreation Reservation Service.]--** Notwithstanding section 611 of the Treasury and General Government Appropriations Act, 1999 (112 Stat. 2681-515), the Secretary may--

(1) participate in the National Recreation Reservation Service on an interagency basis; and

(2) pay the Department of the Army's share of the activities required to implement, operate, and maintain the Service.

**Sec. 207. [Interagency and International Support Authority.]--** Section 234(d) of the Water Resources Development Act of 1996 (33 U.S.C. 2323a(d)) is amended--

(1) by striking the first sentence and inserting the following: “There is authorized to be appropriated to carry out this section $250,000 for fiscal year 2001 and each fiscal year thereafter."; and

(2) in the second sentence by inserting “out" after “carry".

**Sec. 208. [Reburial and Conveyance Authority.]—**

(a) Definition of Indian Tribe.-- In this section, the term “Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) Reburial.--

(1) Reburial areas.-- In consultation with affected Indian tribes, the Secretary may identify and set aside areas at civil works projects of the Department of the Army that may be used to rebury Native American remains that--

(A) have been discovered on project land; and

(B) have been rightfully claimed by a lineal descendant or Indian tribe in accordance with applicable Federal law.

(2) Reburial.-- In consultation with and with the consent of the lineal descendant or the affected Indian tribe, the Secretary may recover and rebury, at Federal expense, the remains at the areas identified and set aside under subsection (b)(1).

(c) Conveyance Authority.--

(1) In general.-- Subject to paragraph (2), notwithstanding any other provision of law, the Secretary may convey to an Indian tribe for use as a cemetery an area at a civil works project that is identified and set aside by the Secretary under subsection (b)(1).

(2) Retention of necessary property interests.-- In carrying out paragraph (1), the Secretary shall retain any necessary right-of-way, easement, or other property interest that the Secretary determines to be necessary to carry out the authorized purposes of the project.

**Sec. 209. [Floodplain Management Requirements.]--**

(a) In General.-- Section 402(c) of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12(c)) is amended--

(1) in the first sentence of paragraph (1) by striking “Within 6 months after the date of the enactment of this subsection, the" and inserting “The";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by striking “Such guidelines shall address" and inserting the following: “(2) Required elements.-- The guidelines developed under paragraph (1) shall-- “(A) address"; and

(4) in paragraph (2) (as designated by paragraph (3) of this subsection)--

(A) by inserting “to be undertaken by non-Federal interests to" after “policies";

(B) by striking the period at the end and inserting “; and"; and

(C) by adding at the end the following: “(B) address those measures to be undertaken by non-Federal interests to preserve the level of flood protection provided by a project to which subsection (a) applies.".

(b) Applicability.-- The amendments made by subsection (a) shall apply to any project or separable element of a project with respect to which the Secretary and the non-Federal interest have not entered a project cooperation agreement on or before the date of enactment of this Act.

(c) Technical Amendments.-- Section 402(b) of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12(b)) is amended--

(1) in the subsection heading by striking “Flood Plain" and inserting “Floodplain"; and

(2) in the first sentence by striking “flood plain" and inserting “floodplain".

* * * * *

**Sec. 227. [Flood Mitigation and Riverne Restoration.]--** Section 212(e) of the Water Resources Development Act of 1999 (33 U.S.C. 2332(e)) is amended—

(1) by striking “and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting “; and"; and

(3) by adding at the end the following:

* * * * *

“(28) **Clear Creek, Harris, Galveston, and Brazoria Counties, Texas.**".

**TITLE III--PROJECT-RELATED PROVISIONS**

* * * * *

**Sec. 302. [Nogales Wash and Tributaries, Nogales, Arizona.]--** The project for flood control, Nogales Wash and tributaries, Nogales, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606), and modified by section 303 of the Water Resources Development Act of 1996 (110 Stat. 3711), is further modified to provide that the Federal share of the costs associated with addressing flood control problems in Nogales, Arizona, arising from floodwater flows originating in Mexico shall be 100 percent.

* * * * *

**Sec. 305. [Sacramento Deep Water Ship Channel, California.]--** The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to authorize the Secretary to credit toward the non-Federal share of the cost of the project the value of dredged material from the project that is purchased by public agencies or nonprofit entities for environmental restoration or other beneficial uses if the Secretary determines that the use of such dredged material is technically sound, environmentally acceptable, and economically justified.

* * * * *

**Sec. 325. [Fort Peck Fish Hatchery, Montana.]--**

(a) Findings.-- Congress finds that--

(1) Fort Peck Lake, Montana, is in need of a multispecies fish hatchery;

(2) the burden of carrying out efforts to raise and stock fish species in Fort Peck Lake has been disproportionately borne by the State of Montana despite the existence of a Federal project at Fort Peck Lake;

(3)(A) as of the date of enactment of this Act, eastern Montana has only 1 warm water fish hatchery, which is inadequate to meet the demands of the region; and

(B) a disease or infrastructure failure at that hatchery could imperil fish populations throughout the region;

(4) although the multipurpose project at Fort Peck, Montana, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1034, chapter 831), was intended to include irrigation projects and other activities designed to promote economic growth, many of those projects were never completed, to the detriment of the local communities flooded by the Fort Peck Dam;

(5) the process of developing an environmental impact statement for the update of the Corps of Engineers Master Manual for the operation of the Missouri River recognized the need for greater support of recreation activities and other authorized purposes of the Fort Peck project;

(6)(A) although fish stocking is included among the authorized purposes of the Fort Peck project, the State of Montana has funded the stocking of Fort Peck Lake since 1947; and

(B) the obligation to fund the stocking constitutes an undue burden on the State; and

(7) a viable multispecies fishery would spur economic development in the region.

(b) Purposes.-- The purposes of this section are--

(1) to authorize and provide funding for the design and construction of a multispecies fish hatchery at Fort Peck Lake, Montana; and

(2) to ensure stable operation and maintenance of the fish hatchery.

(c) Definitions.-- In this section, the following definitions apply:

(1) Fort peck lake.-- The term “Fort Peck Lake" means the reservoir created by the damming of the upper Missouri River in northeastern Montana.

(2) Hatchery project.-- The term “hatchery project" means the project authorized by subsection (d).

(d) Authorization.-- The Secretary shall carry out a project at Fort Peck Lake, Montana, for the design and construction of a fish hatchery and such associated facilities as are necessary to sustain a multispecies fishery.

(e) Cost Sharing.--

(1) Design and construction.--

(A) Federal share.-- The Federal share of the costs of design and construction of the hatchery project shall be 75 percent.

(B) Form of non-federal share.-- The non-Federal share of the costs of the hatchery project may be provided in the form of cash or in the form of land, easements, rights-of-way, services, roads, or any other form of in-kind contribution determined by the Secretary to be appropriate.

(C) Required crediting.-- The Secretary shall credit toward the non-Federal share of the costs of the hatchery project-- (i) the costs to the State of Montana of stocking Fort Peck Lake during the period beginning January 1, 1947; and (ii) the costs to the State of Montana and the counties having jurisdiction over land surrounding Fort Peck Lake of construction of local access roads to the lake.

(2) Operation, maintenance, repair, and replacement.—

(A) In general.--Except as provided in subparagraph (B), the operation, maintenance, repair, and replacement of the hatchery project shall be a non-Federal responsibility.

(B) Costs associated with threatened and endangered species.-- The costs of operation and maintenance associated with raising threatened or endangered species shall be a Federal responsibility.

(f) Authorization of Appropriations.--

(1) In general.-- There are authorized to be appropriated--

(A) $20,000,000 to carry out this section (other than subsection (e)(2)(B)); and
(B) such sums as are necessary to carry out subsection (e)(2)(B).

(2) Availability of funds.-- Sums made available to carry out this section shall remain available until expended.

* * * * *

**Sec. 330. [Garrison Dam, North Dakota.]--** The Secretary shall conduct a study of the Garrison Dam, North Dakota, feature of the project for flood control, Missouri River Basin, authorized by section 9(a) of the Flood Control Act of December 22, 1944 (58 Stat. 891), to determine if the damage to the water transmission line for Williston, North Dakota, is the result of a design deficiency and, if the Secretary determines that the damage is the result of a design deficiency, shall correct the deficiency.

* * * * *

**Sec. 332. [John Day Pool, Oregon and Washington.]--**

(a) Extinguishment of Reversionary Interests and Use Restrictions.-- With respect to the land described in each deed specified in subsection (b)--

(1) the reversionary interests and the use restrictions relating to port or industrial purposes are extinguished;

(2) the human habitation or other building structure use restriction is extinguished in each area where the elevation is above the standard project flood elevation; and

(3) the use of fill material to raise low areas above the standard project flood elevation is authorized, except in any low area constituting wetland for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) would be required.

(b) Affected Deeds.-- Subsection (a) applies to deeds with the following county auditors' numbers:

(1) Auditor's Microfilm Numbers 229 and 16226 of Morrow County, Oregon, executed by the United States.

(2) The portion of the land conveyed in a deed executed by the United States and bearing Benton County, Washington, Auditor's File Number 601766, described as a tract of land lying in Sec. 7, T. 5 N., R. 28 E., Willamette meridian, Benton County, Washington, being more particularly described by the following boundaries:

(A) Commencing at the point of intersection of the centerlines of Plymouth Street and Third Avenue in the First Addition to the Town of Plymouth (according to the duly recorded plat thereof).

(B) Thence west along the centerline of Third Avenue, a distance of 565 feet.

(C) Thence south 54/ 10' west, to a point on the west line of Tract 18 of that Addition and the true point of beginning.

(D) Thence north, parallel with the west line of that Sec. 7, to a point on the north line of that Sec. 7.

(E) Thence west along the north line thereof to the northwest corner of that Sec. 7.

(F) Thence south along the west line of that Sec. 7 to a point on the ordinary high water line of the Columbia River.

(G) Thence northeast along that high water line to a point on the north and south coordinate line of the Oregon Coordinate System, North Zone, that coordinate line being east 2,291,000 feet.

(H) Thence north along that line to a point on the south line of First Avenue of that Addition.

(I) Thence west along First Avenue to a point on the southerly extension of the west line of T. 18.
(J) Thence north along that west line of T. 18 to the point of beginning.

* * * * *

**Sec. 335. [San Antonio Channel, San Antonio, Texas.]--** The project for flood control, San Antonio channel, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259) as part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers in Texas, and modified by section 103 of the Water Resources Development Act of 1976 (90 Stat. 2921), is further modified to include environmental restoration and recreation as project purposes.

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**Sec. 339. [Mount St. Helens, Washington.]--** The project for sediment control, Mount St. Helens, Washington, authorized by chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 318), is modified to authorize the Secretary to maintain, for Longview, Kelso, Lexington, and Castle Rock on the Cowlitz River, Washington, the flood protection levels specified in the October 1985 report of the Chief of Engineers entitled “Mount St. Helens, Washington, Decision Document (Toutle, Cowlitz, and Columbia Rivers)", published as House Document No. 135, 99th Congress.

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**Sec. 347. [Project Deauthorizations.]**

(a) In General.-- The following projects or portions of projects are not authorized after the date of enactment of this Act:

* * * * *

(1) **Sacramento Deep Water Ship Channel, California**.-- The portion of the project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), beginning from the confluence of the Sacramento River and the Barge Canal to a point 3,300 feet west of the William G. Stone Lock western gate (including the William G. Stone Lock and the Bascule Bridge and Barge Canal). All waters within such portion of the project are declared to be nonnavigable waters of the United States solely for the purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401).

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**Sec. 348. [Land Conveyances.].**

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(i) **Candy Lake Project, Osage County, Oklahoma**.-- Section 563(c)(1)(B) of the Water Resources Development Act of 1999 (113 Stat. 357) is amended by striking “a deceased individual" and inserting ``an individual".

* * * * *

(m) **Tri-Cities Area, Washington**.--Section 501(i) of the Water Resources Development Act of 1996 (110 Stat. 3752-3753) is amended--

(1) by inserting before the period at the end of paragraph (1) the following: “; except that any of such local governments, with the agreement of the appropriate district engineer, may exempt from the conveyance to the local government all or any part of the property to be conveyed to the local government"; and

(2) by inserting before the period at the end of paragraph (2)(C) the following: "; except that approximately 7.4 acres in Columbia Park, Kennewick, Washington, consisting of the historic site located in the Park and known and referred to as the "Kennewick Man Site" and such adjacent wooded areas as the Secretary determines are necessary to protect the historic site, shall remain in Federal ownership".

(n) Generally Applicable Provisions.--

(1) Applicability of property screening provisions.-- Section 2696 of title 10, United States Code, shall not apply to any conveyance under this section.

(2) Additional terms and conditions.-- The Secretary may require that any conveyance under this section be subject to such additional terms and conditions as the Secretary considers appropriate and necessary to protect the interests of the United States.

(3) Costs of conveyance.-- An entity to which a conveyance is made under this section shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(4) Liability.-- An entity to which a conveyance is made under this section shall hold the United States harmless from any liability with respect to activities carried out, on or after the date of the conveyance, on the real property conveyed. The United States shall remain responsible for any liability with respect to activities carried out, before such date, on the real property conveyed.

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**Sec. 350. [Continuation of Project Authorizations.]--**

(a) In General.-- Notwithstanding section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)), the following projects shall remain authorized to be carried out by the Secretary:

(1) The projects for flood control, Sacramento River, California, modified by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 900-901).

(2) The project for flood protection, Sacramento River from Chico Landing to Red Bluff, California, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 314).

(b) Limitation.-- A project described in subsection (a) shall not be authorized for construction after the last day of the 7-year period beginning on the date of enactment of this Act, unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

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**TITLE IV--STUDIES**

**Sec. 401. [Studies of Completed Projects.]--** The Secretary shall conduct a study under section 216 of the Flood Control Act of 1970 (84 Stat. 1830) of each of the following completed projects:

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(4) **Port Orford, Oregon**.-- Project for navigation, Port Orford, Oregon, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092).

* * * * *

(e) Authorization of Appropriations.-- There is authorized to be appropriated $1,750,000 to carry out this section.

**Sec. 403. [Upper Mississippi River Basin Sediment and Nutrient Study.]--**

(a) In General.-- In conjunction with the Secretary of Agriculture and the Secretary of the Interior, the Secretary shall conduct a study to--

(1) identify and evaluate significant sources of sediment and nutrients in the upper Mississippi River basin;
(2) quantify the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water; and
(3) quantify the transport of those sediments and nutrients to the upper Mississippi River and the tributaries of the upper Mississippi River.

(b) Study Components.--

(1) Computer modeling.-- In carrying out the study under this section, the Secretary shall develop computer models of the upper Mississippi River basin, at the subwatershed and basin scales, to--

(A) identify and quantify sources of sediment and nutrients; and
(B) examine the effectiveness of alternative management measures.

(2) Research.-- In carrying out the study under this section, the Secretary shall conduct research to improve the understanding of--

(A) fate processes and processes affecting sediment and nutrient transport, with emphasis on nitrogen and phosphorus cycling and dynamics;
(B) the influences on sediment and nutrient losses of soil type, slope, climate, vegetation cover, and modifications to the stream drainage network; and
(C) river hydrodynamics, in relation to sediment and nutrient transformations, retention, and transport.

(c) Use of Information.-- On request of a Federal agency, the Secretary may provide information for use in applying sediment and nutrient reduction programs associated with land-use improvements and land management practices.

(d) Reports.--

(1) Preliminary report.--Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a preliminary report that outlines work being conducted on the study components described in subsection (b).
(2) Final report.-- Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report describing the results of the study under this section, including any findings and recommendations of the study.

(e) Funding.--

(1) Authorization of appropriations.-- There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2001 through 2005.
(2) Federal share.--The Federal share of the cost of carrying out this section shall be 50 percent.

**Sec. 404. [Upper Mississippi River Comprehensive Plan.]--** Section 459(e) of the Water Resources Development Act of 1999 (113 Stat. 333) is amended by striking “date of enactment of this Act" and inserting “first date on which funds are appropriated to carry out this section".

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**Sec. 409. [Cache Creek Basin, California.]--**

(a) In General.-- The Secretary shall conduct a study to determine the feasibility of modifying the project for flood control, Cache Creek Basin, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112), to authorize construction of features to mitigate impacts of the project on the storm drainage system of the city of Woodland, California, that have been caused by construction of a new south levee of the Cache Creek Settling Basin.

(b) Required Elements.-- The study shall include consideration of--

(1) an outlet works through the Yolo Bypass capable of receiving up to 1,600 cubic feet per second of storm drainage from the city of Woodland and Yolo County;

(2) a low-flow cross-channel across the Yolo Bypass, including all appurtenant features, that is sufficient to route storm flows of 1,600 cubic feet per second between the old and new south levees of the Cache Creek Settling Basin, across the Yolo Bypass, and into the Tule Canal; and

(3) such other features as the Secretary determines to be appropriate.

**Sec. 410. [Estudillo Canal, San Leandro, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction along the Estudillo Canal, San Leandro, California.

**Sec. 411. [Laguna Creek, Fremont, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction in the Laguna Creek watershed, Fremont, California.

**Sec. 412. [Lake Merritt, Oakland, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for ecosystem restoration, flood damage reduction, and recreation at Lake Merritt, Oakland, California.

**Sec. 413. [Lancaster, California.]--**

(a) In General.-- The Secretary shall evaluate the report of the city of Lancaster, California, entitled “Master Plan of Drainage", to determine whether the plans contained in the report are feasible and in the Federal interest, including plans relating to drainage corridors located at 52nd Street West, 35th Street West, North Armargosa, and 20th Street East.

(b) Report.-- Not later than September 30, 2001, the Secretary shall transmit to Congress a report on the results of the evaluation.

**Sec. 414. [Oceanside, California.]--** Not later than 32 months after the date of enactment of this Act, the Secretary shall conduct a study, at Federal expense, of plans--

(1) to mitigate for the erosion and other impacts resulting from the construction of Camp Pendleton Harbor, Oceanside, California, as a wartime measure; and

(2) to restore beach conditions along the affected public and private shores to the conditions that existed before the construction of Camp Pendleton Harbor.

**Sec. 415. [San Jacinto Watershed, California.]--**

(a) In General.-- The Secretary shall conduct a watershed study for the San Jacinto watershed, California.

(b) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $250,000.

**Sec. 416. [Suisun Marsh, California.]--** The investigation for Suisun Marsh, California, authorized under the Energy and Water Development Appropriations Act, 2000 (Public Law 106-60), shall be limited to evaluating the feasibility of the levee enhancement and managed wetlands protection program for Suisun Marsh, California.

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**Sec. 423. [Boise River, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction along the Boise River, Idaho.

**Sec. 424. [Wood River, Idaho.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction along the Wood River in Blaine County, Idaho.

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**Sec. 440. [Las Vegas Valley, Nevada.]--** Section 432(b) of the Water Resources Development Act of 1999 (113 Stat. 327) is amended by inserting “recreation," after “runoff),".

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**Sec. 442. [Southwest Valley, Albuquerque, New Mexico.]--** Section 433 of the Water Resources Development Act of 1999 (113 Stat. 327) is amended-

(1) by inserting “(a) In General.— “before” The”"; and

(2) by adding at the end the following: “(b) Evaluation of Flood Damage Reduction Measures.-- In conducting the study, the Secretary shall evaluate flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies of the Corps of Engineers concerning the frequency of flooding, the drainage area, and the amount of runoff.".

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**Sec. 449. [Grand Lake, Oklahoma.]--**

(a) Evaluation.-- The Secretary shall--

(1) evaluate the backwater effects specifically due to flood control operations on land around Grand Lake, Oklahoma; and

(2) transmit, not later than 180 days after the date of enactment of this Act, to Congress a report on whether Federal actions have been a significant cause of the backwater effects.

(b) Feasibility Study.—

(1) In general.-- The Secretary shall conduct a study to determine the feasibility of-

(A) addressing the backwater effects of the operation of the Pensacola Dam, Grand/Neosho River basin, Oklahoma; and

(B) purchasing easements for any land that has been adversely affected by backwater flooding in the Grand/Neosho River basin.

(2) Cost sharing.-- If the Secretary determines under subsection (a)(2) that Federal actions have been a significant cause of the backwater effects, the Federal share of the costs of the feasibility study under paragraph (1) shall be 100 percent.

**Sec. 450. [Columbia Slough, Oregon.]--** Not later than 180 days after the date of enactment of this Act, the Secretary shall complete under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) a feasibility study for the ecosystem restoration project at Columbia Slough, Oregon. If the Secretary determines that the project is appropriate, the Secretary may carry out the project on an expedited basis under such section.

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**TITLE V--MISCELLANEOUS PROVISIONS**

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**Sec. 509. [CALFED Bay-Delta Program Assistance, California.]--**

(a) In General.--The Secretary--

(1) may participate with the appropriate Federal and State agencies in the planning and management activities associated with the CALFED Bay-Delta Program referred to in the California Bay-Delta Environmental Enhancement and Water Security Act (division E of Public Law 104-208; 110 Stat. 3009-748); and

(2) shall integrate, to the maximum extent practicable and in accordance with applicable law, the activities of the Corps of Engineers in the San Joaquin and Sacramento River basins with the long-term goals of the CALFED Bay-Delta Program.

(b) Cooperative Activities.-- In participating in the CALFED Bay-Delta Program under subsection (a), the Secretary may--

(1) accept and expend funds from other Federal agencies and from non-Federal public, private, and nonprofit entities to carry out ecosystem restoration projects and activities associated with the CALFED Bay-Delta Program; and

(2) in carrying out the projects and activities, enter into contracts, cooperative research and development agreements, and cooperative agreements with Federal and non-Federal private, public, and nonprofit entities.

(c) Area Covered by Program.-- For the purposes of this section, the area covered by the CALFED Bay-Delta Program shall be the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and its watershed (known as the "Bay-Delta Estuary"), as identified in the Framework Agreement Between the Governor's Water Policy Council of the State of California and the Federal Ecosystem Directorate.

(d) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years 2002 through 2005.

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**Sec. 511. [Clear Lake Basin, California.]--** Amounts made available to the Secretary by the Energy and Water Development Appropriations Act, 2000 (113 Stat. 483 et seq.) for the project for aquatic ecosystem restoration, Clear Lake basin, California, to be carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), may be used only for the wetlands restoration and creation elements of the project.

**Sec. 512. [Contra Costa Canal, Oakley and Knightsen, California.]--** The Secretary shall carry out a project for flood damage reduction under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) at the Contra Costa Canal, Oakley and Knightsen, California, if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified.

**Sec. 513. [Huntington Beach, California.]--** The Secretary shall carry out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) a project for flood damage reduction in Huntington Beach, California, if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified.

**Sec. 514. [Mallard Slough, Pittsburg, California.]--** The Secretary shall carry out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) a project for flood damage reduction in Mallard Slough, Pittsburg, California, if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified.

* * * * *

**Sec. 529. [Las Vegas, Nevada.]--**

(a) Definitions.-- In this section, the following definitions apply:

(1) Committee.-- The term "Committee" means the Las Vegas Wash Coordinating Committee.

(2) Plan.-- The term "Plan" means the Las Vegas Wash comprehensive adaptive management plan, developed by the Committee and dated January 20, 2000.

(3) Project.-- The term "Project" means the Las Vegas Wash wetlands restoration and Lake Mead improvement project and includes the programs, features, components, projects, and activities identified in the Plan.

(b) Participation in Project.--

(1) In general.-- The Secretary, in conjunction with the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of the Interior and in

partnership with the Committee, shall participate in the implementation of the Project at Las Vegas Wash and Lake Mead in accordance with the Plan.

(2) Cost sharing requirements.--

(A) In general.-- The Non-Federal interests shall pay 35 percent of the cost of any project carried out under this section.

(B) Operation and maintenance.-- The Non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(C) Federal lands.-- Notwithstanding any other provision of this subsection, the Federal share of the cost of a project carried out under this section on Federal lands shall be 100 percent, including the costs of operation and maintenance.

(3) Authorization of appropriations.-- There is authorized to be appropriated $10,000,000 to carry out this section.

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**Sec. 535. [Crowder Point, Crowder, Oklahoma.]--** At the request of the city of Crowder, Oklahoma, the Secretary shall enter into a long-term lease, not to exceed 99 years, with the city under which the city may develop, operate, and maintain as a public park all or a portion of approximately 260 acres of land known as Crowder Point on Lake Eufaula, Oklahoma. The lease shall include such terms and conditions as the Secretary determines are necessary to protect the interest of the United States and project purposes and shall be made without consideration to the United States.

**Sec. 536. [Lower Columbia River and Tillamook Bay Ecosystem Restoration, Oregon and Washington.]—**

(a) In General.-- The Secretary shall conduct studies and ecosystem restoration projects for the lower Columbia River and Tillamook Bay estuaries, Oregon and Washington.

(b) Use of Management Plans.--

(1) Lower Columbia River Estuary.--

(A) In general.-- In carrying out ecosystem restoration projects under this section, the Secretary shall use as a guide the Lower Columbia River estuary program's comprehensive conservation and management plan developed under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330).

(B) Consultation.-- The Secretary shall carry out ecosystem restoration projects under this section for the lower Columbia River estuary in consultation with the Governors of the States of Oregon and Washington and the heads of appropriate Indian tribes, the Environmental Protection Agency, the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the Forest Service.

(2) Tillamook Bay Estuary.--

(A) In general.-- In carrying out ecosystem restoration projects under this section, the Secretary shall use as a guide the Tillamook Bay national estuary project's comprehensive conservation and management plan developed under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330).

(B) Consultation.-- The Secretary shall carry out ecosystem restoration projects under this section for the Tillamook Bay estuary in consultation with the Governor of the State of Oregon and the heads of appropriate Indian tribes, the Environmental

Protection Agency, the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the Forest Service.

(c) Authorized Activities.--

(1) In general.-- In carrying out ecosystem restoration projects under this section, the Secretary shall undertake activities necessary to protect, monitor, and restore fish and wildlife habitat.

(2) Limitations.-- The Secretary may not carry out any activity under this section that adversely affects--

(A) the water-related needs of the lower Columbia River estuary or the Tillamook Bay estuary, including navigation, recreation, and water supply needs; or

(B) private property rights.

(d) Priority.-- In determining the priority of projects to be carried but under this section, the Secretary shall consult with the Implementation Committee of the Lower Columbia River Estuary Program and the Performance Partnership Council of the Tillamook Bay National Estuary Project, and shall consider the recommendations of such entities.

(e) Cost-Sharing Requirements.--

(1) Studies.-- Studies conducted under this section shall be subject to cost sharing in accordance with section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215).

(2) Ecosystem restoration projects.--

(A) In general.-- Non-Federal interests shall pay 35 percent of the cost of any ecosystem restoration project carried out under this section.

(B) Items provided by non-federal interests.--Non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for ecosystem restoration projects to be carried out under this section. The value of such land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this paragraph.

(C) In-kind contributions.-- Not more than 50 percent of the non-Federal share required under this subsection may be satisfied by the provision of in-kind services.

(3) Operation and maintenance.-- Non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(4) Federal lands.-- Notwithstanding any other provision of this subsection, the Federal share of the cost of a project carried out under this section on Federal lands shall be 100 percent, including costs of operation and maintenance.

(f) Definitions.-- In this section, the following definitions apply:

(1) **Lower Columbia River Estuary**.-- The term “Lower Columbia River Estuary" means those river reaches having navigation channels on the mainstem of the Columbia River in Oregon and Washington west of Bonneville Dam, and the tributaries of such reaches to the extent such tributaries are tidally influenced.

(2) **Tillamook Bay Estuary**.-- The term “Tillamook Bay estuary" means those waters of Tillamook Bay in Oregon and its tributaries that are tidally influenced.

(g) **Authorization of Appropriations**.-- There is authorized to be appropriated to carry out this section $30,000,000.

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**Sec. 540. [Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and South Dakota Terrestrial Wildlife Habitat Restoration.]--**

(a) Terrestrial Wildlife Habitat Restoration.-- Section 602 of the Water Resources Development Act of 1999 (113 Stat. 385-388) is amended--

(1) in subsection (a)(4)(C)(i) by striking subclause (I) and inserting the following: "(I) fund, from funds made available for operation and maintenance under the **Pick-Sloan Missouri River Basin** program and through grants to the **State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe**-- "(aa) the terrestrial wildlife habitat restoration programs being carried out as of August 17, 1999, on Oahe and Big Bend project land at a level that does not exceed the greatest amount of funding that was provided for the programs during a previous fiscal year; and "(bb) the carrying out of plans developed under this section; and"; and

(2) in subsection (b)(4)(B) by striking ``section 604(d)(3)(A)(iii)" and inserting "section 604(d)(3)(A)".

(b) **South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund**.-- Section 603 of the Water Resources Development Act of 1999 (113 Stat. 388-389) is amended--

(1) in subsection (c)(2) by striking "The" and inserting "In consultation with the State of South Dakota, the"; and

(2) in subsection (d)-- (A) in paragraph (2) by inserting "Department of Game, Fish and Parks of the" before "State of"; and (B) in paragraph (3)(A)(ii)-- (i) in subclause (I) by striking "transferred" and inserting "transferred or to be transferred"; and (ii) by striking subclause (II) and inserting the following: "(II) fund all costs associated with the lease, ownership, management, operation, administration, maintenance, or development of recreation areas and other land that are transferred or to be transferred to the State of South Dakota by the Secretary;".

(c) **Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds**.-- Section 604 of the Water Resources Development Act of 1999 (113 Stat. 389-390) is amended--

(1) in subsection (c)(2) by striking "The" and inserting "In consultation with the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe, the"; and

(2) in subsection (d)—

(A) in paragraph (2) by inserting "tribal funds" after "for use"; and

(B) in paragraph (3)(A)(ii)—

(i) in subclause (I) by striking 'transferred" and inserting "transferred or to be transferred"; and

(ii) by striking subclause (II) and inserting the following: "(II) fund all costs associated with the lease, ownership, management, operation, administration, maintenance, or development of recreation areas and other land that are transferred or to be transferred to the respective affected Indian Tribe by the Secretary;".

(d) **Transfer of Federal Land to State of South Dakota**.-- Section 605 of the Water Resources Development Act of 1999 (113 Stat. 390-393) is amended--

(1) in subsection (a)(1)—

(A) in subparagraph (B) by striking "in perpetuity" and inserting "for the life of the **Mni Wiconi project**";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) Deadline for transfer of recreation areas.-- Under subparagraph (A), the Secretary shall transfer recreation areas not later than January 1, 2002.";

(2) in subsection (c)—

(A) by redesignating paragraph (1) as paragraph (1)(A);

(B) by redesignating paragraphs (2) through (4) as subparagraphs (B) through (D), respectively, of paragraph (1);

(C) in paragraph (1)—

(i) in subparagraph (C) (as redesignated by subparagraph (B) of this paragraph) by inserting 'and" after the semicolon; and

(ii) in subparagraph (D) (as redesignated by subparagraph (B) of this paragraph) by striking "and" and inserting "or"; and (D) by redesignating paragraph (5) as paragraph (2);

(3) in subsection (d) by striking paragraph (2) and inserting the following: "(2) Structures.—

"(A) In general.-- The map shall identify all land and structures to be retained as necessary for continuation of the operation, maintenance, repair, replacement, rehabilitation, and structural integrity of the dams and related flood control and hydropower structures.

"(B) Lease of recreation areas.—

"(i) In general.-- The Secretary shall lease to the State of South Dakota in perpetuity all or part of the following recreation areas, within the boundaries determined under clause (ii), that are adjacent to land received by the State of South Dakota under this title:

"(I) Oahe Dam and Lake.—

"(aa) Downstream Recreation Area.

"(bb) West Shore Recreation Area.

"(cc) East Shore Recreation Area.

"(dd) Tailrace Recreation Area.

"(II) Fort Randall Dam and Lake Francis case.—

"(aa) Randall Creek Recreation Area.

"(bb) South Shore Recreation Area.

"(cc) Spillway Recreation Area.

"(III) Gavins Point Dam and Lewis and Clark Lake.-- Pierson Ranch Recreation Area.

"(ii) Lease boundaries.-- The Secretary shall determine the boundaries of the recreation areas in consultation with the State of South Dakota.";

(4) in subsection (f)(1) by striking "Federal law" and inserting "a Federal law specified in section 607(a)(6) or any other Federal law";

(5) in subsection (g) by striking paragraph (3) and inserting the following: "(3) Easements and access.—

"(A) In general.--Not later than 180 days after a request by the State of South Dakota, the Secretary shall provide to the State of South Dakota easements and access on land and water below the level of the exclusive flood pool outside Indian reservations in the State of South Dakota for recreational and other purposes (including for boat docks, boat ramps, and related structures).

"(B) No effect on mission.--The easements and access referred to in subparagraph (A) shall not prevent the Corps from carrying out its mission under the Act entitled `An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved December 22, 1944 (58 Stat. 887).";

(6) in subsection (h) by striking "of this Act" and inserting "of law"; and

(7) by adding at the end the following: "(j) Cleanup of Land and Recreation Areas.—

"(1) In general.--Not later than 10 years after the date of enactment of this subsection, the Secretary shall clean up each open dump and hazardous waste site identified by the Secretary and located on the land and recreation areas described in subsections (b) and (c).

"(2) Funding.-- Cleanup activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program. "(k) Cultural Resources Advisory Commission.—

"(1) In general.-- The State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe may establish an advisory commission to be known as the `Cultural Resources Advisory Commission' (referred to in this subsection as the `Commission').

"(2) Membership.--The Commission shall be composed of—

"(A) 1 member representing the State of South Dakota;

"(B) 1 member representing the Cheyenne River Sioux Tribe;

"(C) 1 member representing the Lower Brule Sioux Tribe; and

"(D) upon unanimous vote of the members of the Commission described in subparagraphs (A) through (C), a member representing a federally recognized Indian Tribe located in the State of North Dakota or South Dakota that is historically or traditionally affiliated with the Missouri River basin in South Dakota.

"(3) Duty.-- The duty of the Commission shall be to provide advice on the identification, protection, and preservation of cultural resources on the land and recreation areas described in subsections (b) and (c) of this section and subsections (b) and (c) of section 606.

"(4) Responsibilities, powers, and administration.-- The Governor of the State of South Dakota, the Chairman of the Cheyenne River Sioux Tribe, and the Chairman of the Lower Brule Sioux Tribe are encouraged to unanimously enter into a formal written agreement, not later than 1 year after the date of enactment of this subsection, to establish the role, responsibilities, powers, and administration of the Commission. "(l) Inventory and Stabilization of Cultural and Historic Sites.—

"(1) In general.--Not later than 10 years after the date of enactment of this subsection, the Secretary, through contracts entered into with the State of South Dakota, the affected Indian Tribes, and other Indian Tribes in the States of North Dakota and South Dakota, shall inventory and stabilize each cultural site and historic site located on the land and recreation areas described in subsections (b) and (c).

"(2) Funding.-- Inventory and stabilization activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program.".

(e) Transfer of Corps of Engineers Land for Affected Indian Tribes.-- Section 606 of the Water Resources Development Act of 1999 (113 Stat. 393-395) is amended--

(1) in subsection (a)(1) by striking “The Secretary" and inserting “Not later than January 1, 2002, the Secretary";

(2) in subsection (b)(1) by striking “Big Bend and Oahe" and inserting “Oahe, Big Bend, and Fort Randall";

(3) in subsection (d) by striking paragraph (2) and inserting the following: “(2) Structures.—

“(A) In general.-- The map shall identify all land and structures to be retained as necessary for continuation of the operation, maintenance, repair, replacement, rehabilitation, and structural integrity of the dams and related flood control and hydropower structures.

“(B) Lease of recreation areas.—

“(i) In general.-- The Secretary shall lease to the Lower Brule Sioux Tribe in perpetuity all or part of the following recreation areas at Big Bend Dam and Lake Sharpe:

“(I) Left Tailrace Recreation Area.

“(II) Right Tailrace Recreation Area.

“(III) Good Soldier Creek Recreation Area.

“(ii) Lease boundaries.-- The Secretary shall determine the boundaries of the recreation areas in consultation with the Lower Brule Sioux Tribe.";

(4) in subsection (f)—

(A) in paragraph (1) by striking “Federal law" and inserting “a Federal law specified in section 607(a)(6) or any other Federal law";

(B) in paragraph (2) by striking subparagraph (C) and inserting the following:

“(C) Easements and access.—

“(i) In general.--Not later than 180 days after a request by an affected Indian Tribe, the Secretary shall provide to the affected Indian Tribe easements and access on land and water below the level of the exclusive flood pool inside the Indian reservation of the affected Indian Tribe for recreational and other purposes (including for boat docks, boat ramps, and related structures).

“(ii) No effect on mission.--The easements and access referred to in clause (i) shall not prevent the Corps of Engineers from carrying out its mission under the Act entitled `An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved December 22, 1944 (58 Stat. 887).”; and

(C) in paragraph (3)(B) by inserting before the period at the end the following: “that were administered by the Corps of Engineers as of the date of the land transfer."; and

(5) by adding at the end the following: “(h) Cleanup of Land and Recreation Areas.—

“(1) In general.-- Not later than 10 years after the date of enactment of this subsection, the Secretary shall clean up each open dump and hazardous waste site identified by the Secretary and located on the land and recreation areas described in subsections (b) and (c).

"(2) Funding.--Cleanup activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program. "(i) Inventory and Stabilization of Cultural and Historic Sites.—

"(1) In general.--Not later than 10 years after the date of enactment of this subsection, the Secretary, in consultation with the Cultural Resources Advisory Commission established under section 605(k) and through contracts entered into with the State of South Dakota, the affected Indian Tribes, and other Indian Tribes in the States of North Dakota and South Dakota, shall inventory and stabilize each cultural site and historic site located on the land and recreation areas described in subsections (b) and (c).

"(2) Funding.-- Inventory and stabilization activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program. "(j) Sediment Contamination.—

"(1) In general.--Not later than 10 years after the date of enactment of this subsection, the Secretary shall—

"(A) complete a study of sediment contamination in the Cheyenne River; and

"(B) take appropriate remedial action to eliminate any public health and environmental risk posed by the contaminated sediment.

"(2) Authorization of appropriations.-- There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).".

(f) Budget Considerations.-- Section 607 of the Water Resources Development Act of 1999 (113 Stat. 395-396) is amended by adding at the end the following: "(d) Budget Considerations.—

"(1) In general.--In developing an annual budget to carry out this title, the Corps of Engineers shall consult with the State of South Dakota and the affected Indian Tribes.

"(2) Inclusions; availability.-- The budget referred to in paragraph (1) shall—

"(A) be detailed;

"(B) include all necessary tasks and associated costs; and

"(C) be made available to the State of South Dakota and the affected Indian Tribes at the time at which the Corps of Engineers submits the budget to Congress.".

(g) Authorization of Appropriations.-- Section 609 of the Water Resources Development Act of 1999 (113 Stat. 396-397) is amended by striking subsection (a) and inserting the following: (a) Secretary.—

"(1) In general.-- There are authorized to be appropriated to the Secretary for each fiscal year such sums as are necessary--

"(A) to pay the administrative expenses incurred by the Secretary in carrying out this title;

"(B) to fund the implementation of terrestrial wildlife habitat restoration plans under section 602(a);

"(C) to fund activities described in sections 603(d)(3) and 604(d)(3) with respect to land and recreation areas transferred or to be transferred to an affected Indian Tribe or the State of South Dakota under section 605 or 606; and

"(D) to fund the annual expenses (not to exceed the Federal cost as of August 17, 1999) of operating recreation areas transferred or to be transferred under sections 605(c) and 606(c) to, or leased by, the State of South Dakota or an affected Indian Tribe, until such time as the trust funds under sections 603 and 604 are fully capitalized.

"(2) Allocations.—

"(A) In general.--For each fiscal year, the Secretary shall allocate the amounts made available under subparagraphs (B), (C), and (D) of paragraph (1) as follows:

"(i) $1,000,000 (or, if a lesser amount is so made available for the fiscal year, the lesser amount) shall be allocated equally among the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe, for use in accordance with paragraph (1).

"(ii) Any amounts remaining after the allocation under clause (i) shall be allocated as follows:

"(I) 65 percent to the State of South Dakota.

"(II) 26 percent to the Cheyenne River Sioux Tribe.

"(III) 9 percent to the Lower Brule Sioux Tribe.

"(B) Use of allocations.-- Amounts allocated under subparagraph (A) may be used at the option of the recipient for any purpose described in subparagraph (B), (C), or (D) of paragraph (1).".

(h) Clarification of References to Indian Tribes.--

(1) Definitions.-- Section 601 of the Water Resources Development Act of 1999 (113 Stat. 385) is amended by striking paragraph (1) and inserting the following: "(1) Affected Indian Tribe.-- The term `affected Indian tribe' means each of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.".

(2) Terrestrial wildlife habitat restoration.-- Section 602(b)(4)(B) of the Water Resources Development Act of 1999 (113 Stat. 388) is amended by striking "the Tribe" and inserting "the affected Indian Tribe".

(3) Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe terrestrial wildlife habitat restoration trust funds.--Section 604(d)(3)(A) of the Water Resources Development Act of 1999 (113 Stat. 390) is amended by striking "the respective Tribe" each place it appears and inserting ``the respective affected Indian Tribe".

(4) Transfer of federal land to state of South Dakota.-- Section 605 of the Water Resources Development Act of 1999 (113 Stat. 390-393) is amended--

(A) in subsection (b)(3) by striking "an Indian Tribe" and inserting "any Indian Tribe"; and

(B) in subsection (c)(1)(B) (as redesignated by subsection (d)(2)(B) of this section) by striking "an Indian Tribe" and inserting "any Indian Tribe".

(5) Transfer of corps of engineers land for affected Indian Tribes.-- Section 606 of the Water Resources Development Act of 1999 (113 Stat. 393-395) is amended--

(A) in the section heading by striking "Indian Tribes" and inserting "affected Indian Tribes";

(B) in paragraphs (1) and (4) of subsection (a) by striking "the Indian Tribes" each place it appears and inserting "the affected Indian Tribes";

(C) in subsection (c)(2) by striking "an Indian Tribe" and inserting "any Indian Tribe";

(D) in subsection (f)(2)(B)(i)-- (i) by striking “the respective tribes" and inserting “the respective affected Indian Tribes"; and (ii) by striking “the respective Tribe's" and inserting “the respective affected Indian Tribe's"; and (E) in subsection (g) by striking “an Indian Tribe" and inserting “any Indian Tribe".

(6) Administration.-- Section 607(a) of the Water Resources Development Act of 1999 (113 Stat. 395) is amended by striking “an Indian Tribe" each place it appears and inserting “any Indian Tribe".

* * * * *

**Sec. 544. [Puget Sound and Adjacent Waters Restoration, Washington.]--**

(a) Definition of Critical Restoration Project.--In this section, the term “critical restoration project" means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(b) Critical Restoration Projects.-- The Secretary may participate in critical restoration projects in the area of Puget Sound, Washington, and adjacent waters, including--

(1) the watersheds that drain directly into Puget Sound;
(2) Admiralty Inlet;
(3) Hood Canal;
(4) Rosario Strait; and
(5) the Strait of Juan de Fuca to Cape Flattery.

(c) Project Selection.--

(1) In general.-- The Secretary may identify critical restoration projects in the area described in subsection (b) based on--

(A) studies to determine the feasibility of carrying out the critical restoration projects; and
(B) analyses conducted before the date of enactment of this Act by non-Federal interests.

(2) Criteria and procedures for review and approval.--

(A) In general.--In consultation with the Secretary of Commerce, the Secretary of the Interior, the Governor of the State of Washington, tribal governments, and the heads of other appropriate Federal, State, and local agencies, the Secretary may develop criteria and procedures for prioritizing projects identified under paragraph (1).
(B) Consistency with fish restoration goals.-- The criteria and procedures developed under subparagraph (A) shall be consistent with fish restoration goals of the National Marine Fisheries Service and the State of Washington.
(C) Use of existing studies and plans.-- In carrying out subparagraph (A), the Secretary shall use, to the maximum extent practicable, studies and plans in existence on the date of enactment of this Act to identify project needs and priorities.

(3) Local participation.-- In prioritizing projects for implementation under this section, the Secretary shall consult with, and consider the priorities of, public and private entities that are active in watershed planning and ecosystem restoration in Puget Sound watersheds, including--

(A) the Salmon Recovery Funding Board;

(B) the Northwest Straits Commission;
(C) the Hood Canal Coordinating Council;
(D) county watershed planning councils; and
(E) salmon enhancement groups.

(d) Implementation.-- The Secretary may carry out projects identified under subsection (c) after entering into an agreement with an appropriate non-Federal interest in accordance with section of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.

(e) Cost Sharing.--

(1) In general.--Before carrying out any project under this section, the Secretary shall enter into a binding agreement with the non-Federal interest that shall require the non-Federal interest--

(A) to pay 35 percent of the total costs of the project;
(B) to provide any land, easements, rights-of-way, dredged material disposal areas and relocations necessary to carry out the project;
(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the project; and
(D) to hold the United States harmless from any claim or damage that may arise from carrying out the project, except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

(2) Credit.--

(A) In general.--The Secretary shall credit the non-Federal interest for the value of any land, easement, right-of-way, dredged material disposal area, or relocation provided for carrying out the project.
(B) Form.-- The Non-Federal interest may provide up to 50 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(f) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $40,000,000, of which not more than $5,000,000 may be used to carry out any 1 critical restoration project.

**Sec. 545. [Willapa Bay, Washington.]--**

(a) Study.-- The Secretary shall conduct a study to determine the feasibility of providing coastal erosion protection for the tribal reservation of the Shoalwater Bay Tribe on Willapa Bay, Washington.

(b) Project.--

(1) In general.--Notwithstanding any other provision of law (including any requirement for economic justification), the Secretary may construct and maintain a project to provide coastal erosion protection for the tribal reservation of the Shoalwater Bay Tribe on Willapa Bay, Washington, at Federal expense, if the Secretary determines that the project--

(A) is a cost-effective means of providing erosion protection;
(B) is environmentally acceptable and technically feasible; and
(C) will improve the economic and social conditions of the Shoalwater Bay Tribe.

(2) Land, easements, and rights-of-way.--As a condition of the project described in paragraph (1), the Shoalwater Bay Tribe shall provide lands, easements, rights-of-way, and dredged material disposal areas necessary for implementation of the project.

**Sec. 546. [Wynoochee Lake, Wynoochee River, Washington.]--**

(a) In General.-- The city of Aberdeen, Washington, may transfer all rights, title, and interests of the city in the land transferred to the city under section 203 of the Water Resources Development Act of 1990 (104 Stat. 4632) to the city of Tacoma, Washington.

(b) Conditions.--The transfer under this section shall be subject to the conditions set forth in section 203(b) of the Water Resources Development Act of 1990 (104 Stat. 4632); except that the condition set forth in paragraph (1) of such section shall apply to the city of Tacoma only for so long as the city of Tacoma has a valid license with the Federal Energy Regulatory Commission relating to operation of the Wynoochee Dam, Washington.

(c) Limitation.-- The transfer under subsection (a) may be made only after the Secretary determines that the city of Tacoma will be able to operate, maintain, repair, replace, and rehabilitate the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), in accordance with such regulations as the Secretary may issue to ensure that such operation, maintenance, repair, replacement, and rehabilitation is consistent with project purposes.

(d) Water Supply Contract.-- The water supply contract designated as DACWD 67-68-C-0024 shall be null and void if the Secretary exercises the reversionary right set forth in section 203(b)(3) of the Water Resources Development Act of 1990 (104 Stat. 4632).

* * * * *

**Sec. 551. [Surfside/Sunset and Newport Beach, California.]--** The Secretary shall treat the Surfside/Sunset Newport Beach element of the project for beach erosion, Orange County, California, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1177), as continuing construction.

**Sec. 552. [Watershed Management, Restoration, and Development.]--** Section 503(d) of the Water Resources Development Act of 1996 (110 Stat. 3756-3757; 113 Stat. 288) is amended by adding at the end the following: “(28) Tomales Bay watershed, California.

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“(33) **Brazos River Watershed, Texas**.".

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**Sec. 554. [Hydrographic Survey.]--** The Secretary shall enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration--

(1) to require the Secretary, not later than 60 days after the Corps of Engineers completes a project involving dredging of a channel, to provide data to the Administration in a standard digital format on the results of a hydrographic survey of the channel conducted by the Corps of Engineers; and

(2) to require the Administrator to provide the final charts with respect to the project to the Secretary in digital format, at no charge, for the purpose of enhancing the mission of the Corps of Engineers of maintaining Federal navigation projects.

**Sec. 555. [Columbia River Treaty Fishing Access.]--** Section 401(d) of the Act entitled “An Act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987)", approved November 1, 1988 (102 Stat. 2944), is amended by striking “$2,000,000" and inserting “$4,000,000".

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**TITLE VII--MISSOURI RIVER RESTORATION, NORTH DAKOTA**

**Sec. 701. [Short Title.]--** This title may be cited as the "Missouri River Protection and Improvement Act of 2000".

**Sec. 702. [Findings and Purposes.]--**

(a) Findings.-- Congress finds that--

(1) the Missouri River is--

(A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and

(B) a critical source of water for drinking and irrigation;

(2) millions of people fish, hunt, and camp along the Missouri River each year;

(3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;

(4) the Missouri River provides critical wildlife habitat for threatened and endangered species;

(5) in 1944, Congress approved the Pick-Sloan program--

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(6) the Garrison Dam was constructed on the Missouri River in North Dakota and the Oahe Dam was constructed in South Dakota under the Pick-Sloan program;

(7) the dams referred to in paragraph (6)--

(A) generate low-cost electricity for millions of people in the United States;

(B) provide revenue to the Treasury; and

(C) provide flood control that has prevented billions of dollars of damage;

(8) the Garrison and Oahe Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Sakakawea and Lake Oahe;

(9) the sediment depositions--

(A) cause shoreline flooding;

(B) destroy wildlife habitat;

(C) limit recreational opportunities;

(D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;

(E) reduce water quality; and

(F) threaten intakes for drinking water and irrigation; and

(10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program--

(A) to improve conservation;

(B) to reduce the deposition of sediment; and

(C) to take other steps necessary for proper management of the Missouri River.

(b) Purposes.-- The purposes of this title are--

(1) to reduce the siltation of the Missouri River in the State of North Dakota;

(2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy--

(A) to improve conservation in the Missouri River watershed;

(B) to protect recreation on the Missouri River from sedimentation;

(C) to improve water quality in the Missouri River;

(D) to improve erosion control along the Missouri River; and

(E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and

(3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

**Sec. 703. [Definitions.]**-- In this title, the following definitions apply:

(1) Pick-Sloan program.-- The term "Pick-Sloan program" means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891).

(2) Plan.-- The term "plan" means the plan for the use of funds made available by this title that is required to be prepared under section 705(e).

(3) State.-- The term "State" means the State of North Dakota.

(4) Task force.-- The term "Task Force" means the North Dakota Missouri River Task Force established by section 705(a).

(5) Trust.-- The term "Trust" means the North Dakota Missouri River Trust established by section 704(a).

**Sec. 704. [Missouri River Trust.]**--

(a) Establishment.-- There is established a committee to be known as the North Dakota Missouri River Trust.

(b) Membership.--The Trust shall be composed of 16 members to be appointed by the Secretary, including--

(1) 12 members recommended by the Governor of North Dakota that--

(A) represent equally the various interests of the public; and

(B) include representatives of-- (i) the North Dakota Department of Health; (ii) the North Dakota Department of Parks and Recreation; (iii) the North Dakota Department of Game and Fish; (iv) the North Dakota State Water Commission; (v) the North Dakota Indian Affairs Commission; (vi) agriculture groups; (vii) environmental or conservation organizations; (viii) the hydroelectric power industry; (ix) recreation user groups; (x) local governments; and (xi) other appropriate interests;

(2) 4 members representing each of the 4 Indian tribes in the State of North Dakota.

**Sec. 705. [Missouri River Task Force.]**--

(a) Establishment.-- There is established the Missouri River Task Force.

(b) Membership.-- The Task Force shall be composed of--

(1) the Secretary (or a designee), who shall serve as Chairperson;

(2) the Secretary of Agriculture (or a designee);

(3) the Secretary of Energy (or a designee);

(4) the Secretary of the Interior (or a designee); and

(5) the Trust.

(c) Duties.-- The Task Force shall--

(1) meet at least twice each year;

(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;
(3) review projects to meet the goals of the plan; and
(4) recommend to the Secretary critical projects for implementation.

(d) Assessment.--

(1) In general.-- Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall transmit to the other members of the Task Force a report on--

(A) the impact of the siltation of the Missouri River in the State, including the impact on—

(i) the Federal, State, and regional economies;
(ii) recreation;
(iii) hydropower generation;
(iv) fish and wildlife; and
(v) flood control;

(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;
(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and
(D) other issues, as requested by the Task Force.

(2) Consultation.-- In preparing the report under paragraph (1), the Secretary shall consult with--

(A) the Secretary of Energy;
(B) the Secretary of the Interior;
(C) the Secretary of Agriculture;
(D) the State; and
(E) Indian tribes in the State.

(e) Plan for Use of Funds Made Available by This Title.--

(1) In general.-- Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.

(2) Contents of plan.-- The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote--

(A) conservation practices in the Missouri River watershed;
(B) the general control and removal of sediment from the Missouri River;
(C) the protection of recreation on the Missouri River from sedimentation;
(D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;
(E) erosion control along the Missouri River; or
(F) any combination of the activities described in subparagraphs (A) through (E).

(3) Plan review and revision.--

(A) In general.--The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final in accordance with procedures established by the Task Force.

(B) Revision of plan.-- (i) In general.-- The Task Force may, on an annual basis, revise the plan.(ii) Public review and comment.--In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.

(f) Critical Restoration Projects.--

(1) In general.--After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.

(2) Agreement.-- The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.

(3) Indian projects.-- To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are--

(A) within the boundary of an Indian reservation; or

(B) administered by an Indian tribe.

(g) Cost Sharing.--

(1) Assessment.--

(A) Federal share.-- The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.

(B) Non-federal share.-- The Non-Federal share of the cost of carrying out the assessment may be provided in the form of services, materials, or other in-kind contributions.

(2) Plan.--

(A) Federal share.--The Federal share of the cost of preparing the plan shall be 75 percent.

(B) Non-federal share.-- Not more than 50 percent of the non-Federal share of the cost of preparing the plan may be provided in the form of services, materials, or other in-kind contributions.

(3) Critical restoration projects.--

(A) In general.-- A Non-Federal cost share shall be required to carry out any project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.

(B) Federal share.-- The Federal share of the cost of carrying out a project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed $5,000,000 for any project.

(C) Non-federal share.—

(i) In general.--Not more than 50 percent of the non-Federal share of the cost of carrying out a project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.

(ii) Required non-federal contributions.— For any project described in subparagraph (B), the non-Federal interest shall—

(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;
(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and
(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(iii) Credit.-- The Secretary shall credit the non-Federal interest for all contributions provided under clause (ii)(I).

**Sec. 706. [Administration.]--**

(a) In General.-- Nothing in this title diminishes or affects--

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian tribe;

(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including--

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

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

(b) Federal Liability for Damage.-- Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.

(c) Flood Control.-- Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Flood Control Act of December 22, 1944 (33 U.S.C. 701-1 et seq.; 58 Stat. 887).

(d) Use of Funds.-- Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

**Sec. 707. [Authorization of Appropriations.]--**

(a) In General.-- There is authorized to be appropriated to the Secretary to carry out this title $5,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.

(b) Existing Programs.-- The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

**TITLE VIII--WILDLIFE REFUGE ENHANCEMENT**

**Sec. 801. [Short Title.]--** This title may be cited as the “Charles M. Russell National Wildlife Refuge Enhancement Act of 2000".

**Sec. 802. [Purpose.]--** The purpose of this title is to direct the Secretary, working with the Secretary of the Interior, to convey cabin sites at Fort Peck Lake, Montana, and to acquire land with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge, to--

(1) better achieve the wildlife conservation purposes for which the Refuge was established;

(2) protect additional fish and wildlife habitat in and adjacent to the Refuge;

(3) enhance public opportunities for hunting, fishing, and other wildlife-dependent activities;

(4) improve management of the Refuge; and

(5) reduce Federal expenditures associated with the administration of cabin site leases.

**Sec. 803. [Definitions.]--** In this title, the following definitions apply:

(1) Association.--The term “Association" means the Fort Peck Lake Association.

(2) Cabin site.--

(A) In general.--The term “cabin site" means a parcel of property within the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas that is--

(i) managed by the Corps of Engineers;

(ii) located in or near the eastern portion of Fort Peck Lake, Montana; and

(iii) leased for single family use or occupancy.

(B) Inclusions.-- The term “cabin site" includes all right, title, and interest of the United States in and to the property, including—

(i) any permanent easement that is necessary to provide vehicular and utility access to the cabin site;

(ii) the right to reconstruct, operate, and maintain an easement described in clause (i); and

(iii) any adjacent parcel of land that the Secretary determines should be conveyed under section 804(c)(1).

(3) Cabin site area.--

(A) In general.-- The term “cabin site area" means a portion of the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas referred to in paragraph (2) that is occupied by 1 or more cabin sites.

(B) Inclusion.-- The term “cabin site area" includes such immediately adjacent land, if any, as is needed for the cabin site area to exist as a generally contiguous parcel of land and for each cabin site in the cabin site area to meet the requirements of section 804(e)(1), as determined by the Secretary, with the concurrence of the Secretary of the Interior.

(4) Land.-- The term “land" means land or an interest in land.

(5) Lessee.-- The term “lessee" means a person that is leasing a cabin site.

(6) Refuge.-- The term “Refuge" means the Charles M. Russell National Wildlife Refuge in the State of Montana.

**Sec. 804. [Conveyance of Cabin Sites.]--**

(a) In General.--

(1) Prohibition.-- As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prohibit the issuance of new cabin site

leases within the Refuge, except as is necessary to consolidate with, or substitute for, an existing cabin site lease under paragraph (2).

(2) Determination;-- Not later than 1 year after the date of enactment of this Act, and before proceeding with any exchange under this title, the Secretary shall--

(A)(i) with the concurrence of the Secretary of the Interior, determine individual cabin sites that are not suitable for conveyance to a lessee because the cabin sites are isolated so that conveyance of 1 or more of the cabin sites would create an inholding that would impair management of the Refuge; and

(ii) with the concurrence of the Secretary of the Interior and the lessee, determine individual cabin sites that are not suitable for conveyance to a lessee for any other reason that adversely impacts the future habitability of the cabin sites; and

(B) provide written notice to each lessee that specifies any requirements concerning the form of a notice of interest in acquiring a cabin site that the lessee may submit under subsection (b)(1) and an estimate of the portion of administrative costs that would be required to be reimbursed to the Secretary under section 808(b), to—

(i) determine whether the lessee is interested in acquiring the cabin site area of the lessee; and

(ii) inform each lessee of the rights of the lessee under this title.

(3) Offer of comparable cabin site.-- If the Secretary determines that a cabin site is not suitable for conveyance to a lessee under paragraph (2)(A), the Secretary, in consultation with the Secretary of the Interior, shall offer to the lessee the opportunity to acquire a comparable cabin site within the same cabin site area.

(b) Response.--

(1) Notice of interest.--

(A) In general.-- Not later than July 1, 2003, a lessee shall notify the Secretary in writing of an interest in acquiring the cabin site of the lessee.

(B) Form.--The notice under this paragraph shall be submitted in such form as is required by the Secretary under subsection (a)(2)(B).

(2) Unpurchased cabin sites.--If the Secretary receives no notice of interest or offer to purchase a cabin site from the lessee under paragraph (1) or the lessee declines an opportunity to purchase a comparable cabin site under subsection (a)(3), the cabin site shall be subject to sections 805 and 806.

(c) Process.-- After providing notice to a lessee under subsection (a)(2)(B), the Secretary, with the concurrence of the Secretary of the Interior, shall--

(1) determine whether any small parcel of land adjacent to any cabin site (not including shoreline or land needed to provide public access to the shoreline of Fort Peck Lake) should be conveyed as part of the cabin site to--

(A) protect water quality;

(B) eliminate an inholding; or

(C) facilitate administration of the land remaining in Federal ownership;

(2) if the Secretary and the Secretary of the Interior determine that a conveyance should be completed under paragraph (1), provide notice of the intent of the Secretary to complete the conveyance to the lessee of each affected cabin site;

(3) survey each cabin site to determine the acreage and legal description of the cabin site area, including land identified under paragraph (1);

(4) take such actions as are necessary to ensure compliance with all applicable environmental laws;
(5) prepare permanent easements or deed restrictions to be enforceable by the Secretary of the Interior or an acceptable third party, to be placed on a cabin site before conveyance out of Federal ownership in order to--
(A) comply with the Act of May 18, 1938 (16 U.S.C. 833 et seq.);
(B) comply with any other laws (including regulations);
(C) ensure the maintenance of existing and adequate public access to and along Fort Peck Lake;
(D) limit future uses of the cabin site to--
(i) noncommercial, single-family use; and
(ii) the type and intensity of use of the cabin site as of the date of enactment of this Act; and
(E) maintain the values of the Refuge; and (6) conduct an appraisal of each cabin site (including any expansion of the cabin site under paragraph (1)) that-- (A) is carried out in accordance with the Uniform Appraisal Standards for Federal Land Acquisition; (B) excludes the value of any private improvement to the cabin site; and (C) takes into consideration—
(i) any easement or deed restriction determined to be necessary under paragraph (5) and subsection (h); and
(ii) the definition of “cabin site" under section 803(2).

(d) Consultation and Public Involvement.-- The Secretary shall--
(1) carry out subsections (b) and (c) in consultation with--
(A) affected lessees;
(B) affected counties in the State of Montana; and
(C) the Association; and
(2) hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

(e) Conveyance.-- Subject to subsections (h) and (i) and section 808(b), the Secretary or, if necessary, the Secretary of the Interior shall convey a cabin site by individual patent or deed to the lessee under this title--
(1) if the cabin site complies with Federal, State, and county septic and water quality laws (including regulations);
(2) if the lessee complies with other requirements of this section; and
(3) after receipt of the payment from the lessee for the cabin site of an amount equal to the sum of--
(A) the appraised fair market value of the cabin site as determined in accordance with subsection (c)(6); and
(B) the administrative costs required to be reimbursed under section 808.

(f) Vehicular Access.--
(1) In general.-- Nothing in this title authorizes any addition to or improvement of vehicular access to a cabin site.
(2) Construction.-- The Secretary and the Secretary of the Interior--
(A) shall not construct any road for the sole purpose of providing access to land conveyed under this section; and

(B) shall be under no obligation to service or maintain any existing road used primarily for access to that land (or to a cabin site).

(3) Offer to convey.--The Secretary, with the concurrence of the Secretary of the Interior, may offer to convey to the State of Montana, any political subdivision of the State of Montana, or the Association, any road determined by the Secretary to primarily service the land conveyed under this section.

(g) Utilities and Infrastructure.--

(1) In general.-- The purchaser of a cabin site shall be responsible for acquiring or securing the use of all utilities and infrastructure necessary to support the cabin site.

(2) No federal assistance.-- The Secretary and the Secretary of the Interior shall not provide any utilities or infrastructure to the cabin site.

(h) Easements and Deed Restrictions.--

(1) In general.-- Before conveying any cabin site under subsection (e), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance--

(A) includes such easements and deed restrictions as are determined, under subsection (c), to be necessary; and

(B) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(2) Reservation of rights.-- The Secretary may reserve the perpetual right, power, privilege, and easement to permanently overflow, flood, submerge, saturate, percolate, or erode a cabin site (or any portion of a cabin site) that the Secretary determines is necessary in the operation of the Fort Peck Dam.

(i) No Conveyance of Unsuitable Cabin Sites.-- A cabin site that is determined to be unsuitable for conveyance under subsection (a)(2)(A) shall not be conveyed by the Secretary or the Secretary of the Interior under this section.

(j) Identification of Land for Exchange.--

(1) In general.-- As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall identify land that may be acquired that meets the purposes of this title specified in paragraphs (1) through (4) of section 802 and for which 1 or more willing sellers exist.

(2) Appraisal.-- On a request by a willing seller, the Secretary of the Interior shall appraise the land identified under paragraph (1).

(3) Acquisition.-- If the Secretary of the Interior determines that the acquisition of the land would meet the purposes of this title specified in paragraphs (1) through (4) of section 802, the Secretary of the Interior shall cooperate with the willing seller to facilitate the acquisition of the land in accordance with section 807.

(4) Public participation.-- The Secretary of the Interior shall hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

**Sec. 805. [Rights of Nonparticipating Lessees.]--**

(a) Continuation of Lease.--

(1) In general.-- A lessee that does not provide the Secretary with an offer to acquire the cabin site of the lessee under section 804 (including a lessee who declines an offer of a comparable cabin site under section 804(a)(3)) may elect to continue to lease the cabin site for the remainder of the current term of the lease, which, except as provided in paragraph (2), shall not be renewed or otherwise extended.

(2) Expiration before 2010.-- If the current term of a lessee described in paragraph (1) expires or is scheduled to expire before 2010, the Secretary shall offer to extend or renew the lease through 2010.

(b) Improvements.-- Any improvements and personal property of the lessee that are not removed from the cabin site before the termination of the lease shall be considered property of the United States in accordance with the provisions of the lease.

(c) Option to Purchase.-- Subject to subsections (d) and (e) and section 808(b), if at any time before termination of the lease, a lessee described in subsection (a)(1)--

(1) notifies the Secretary of the intent of the lessee to purchase the cabin site of the lessee; and

(2) pays for an updated appraisal of the cabin site in accordance with section 804(c)(6); the Secretary or, if necessary, the Secretary of the Interior shall convey the cabin site to the lessee, by individual patent or deed, on receipt of payment from the lessee for the cabin site of an amount equal to the sum of the appraised fair market
value of the cabin site, as determined by the updated appraisal, and the administrative costs required to be reimbursed under section 808.

(d) Easements and Deed Restrictions.-- Before conveying any cabin site under subsection (c), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance--

(1) includes such easements and deed restrictions as are determined, under section 804(c), to be necessary; and

(2) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site. (e) No Conveyance of Unsuitable Cabin Sites.-- A cabin site that is determined to be unsuitable for conveyance under subsection 804(a)(2)(A) shall not be conveyed by the Secretary or the Secretary of the Interior under this section.

(f) Report.-- Not later than July 1, 2003, the Secretary shall submit to Congress a report that--

(1) describes progress made in implementing this title; and

(2) identifies cabin owners that have filed a notice of interest under section 804(b) and have declined an opportunity to acquire a comparable cabin site under section 804(a)(3).

**Sec. 806. [Conveyance to Third Parties.]--**

(a) Conveyances to Third Parties.-- As soon as practicable after the expiration or surrender of a lease, the Secretary, with the concurrence of the Secretary of the Interior, may offer for sale, by public auction, written invitation, or other competitive sales procedure, and at the fair market value of the cabin site determined under section 804(c)(6), any cabin site that--

(1) is not conveyed to a lessee under this title; and

(2) has not been determined to be unsuitable for conveyance under section 804(a)(2)(A).

(b) Easements and Deed Restrictions.-- Before conveying any cabin site under subsection (a), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance--

(1) includes such easements and deed restrictions as are determined, under section 804(c), to be necessary; and

(2) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(c) Management of Remaining Land Within Cabin Site Areas.--

(1) Management by the secretary.-- All land within the outer boundaries of a cabin site area that is not conveyed under this Act shall be managed by the Secretary, in consultation with

the Secretary of the Interior, in substantially the same manner as that land is managed on the date of enactment of this Act and consistent with the purposes for which the Refuge was established.

(2) Construction and development.-- The Secretary shall not initiate or authorize any development or construction on land under paragraph (1) except with the concurrence of the Secretary of the Interior.

**Sec. 807. [Use of Proceeds.]--**

(a) Proceeds.-- All payments for the conveyance of cabin sites under this title, except costs reimbursed to the Secretary under section 808(b)--

(1) shall be deposited in a special fund within the Montana Fish and Wildlife Conservation Trust established under section 1007 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681-715) (as amended by title IV of H.R. 3425 of the 106th Congress, as enacted by section 1000(a)(5) of Public Law 106-113 (113 Stat. 1536, 1501A-307); and

(2) notwithstanding title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681-710), shall be available for use by the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service in the Director's sole discretion and without further Act of appropriation, solely for the acquisition from willing sellers of property that--

(A) is within or adjacent to the Refuge;

(B) would be suitable to carry out the purposes of this title specified in paragraphs (1) through (4) of section 802; and

(C) on acquisition by the Secretary of the Interior, would be accessible to the general public for use in conducting activities consistent with approved uses of the Refuge.

(b) Limitations.--

(1) In general.-- To the extent practicable, acquisitions under this title shall be of land within the Refuge.

(2) No effect on acquisition.--Nothing in this subsection limits the ability of the Secretary of the Interior to acquire land adjacent to the Refuge from a willing seller in cases in which the Secretary of the Interior also acquires land within the Refuge from the same willing seller.

**Sec. 808. [Administrative Costs.]--**

(a) In General.-- Except as provided in subsection (b), the Secretary shall pay all administrative costs incurred in carrying out this title.

(b) Reimbursement.-- As a condition of the conveyance of any cabin site area under this title, the Secretary or the Secretary of the Interior--

(1) may require the party to whom the property is conveyed to reimburse the Secretary or the Secretary of the Interior for a reasonable portion, as determined by the Secretary or the Secretary of the Interior, of the direct administrative costs (including survey costs) incurred in carrying out conveyance activities under this title, taking into consideration any cost savings achieved as a result of the party's agreeing to purchase its cabin site as part of a single transaction for the conveyance of multiple cabin sites; and

(2) shall require the party to whom the property is conveyed to reimburse the Association for a proportionate share of the costs (including interest) incurred by the Association in carrying out transactions under this title.

**Sec. 809. [Revocation of Withdrawals.]--**
(a) In General.-- Upon execution of any patent or deed, by the Secretary or the Secretary of the Interior, conveying land as specifically authorized by this title, any public land withdrawal affecting the land described in the conveyance document as being conveyed shall be revoked with respect to that land.
(b) Exclusions.-- Nothing in this section affects--
(1) the status of any public land withdrawal on land retained by the Secretary or the Secretary of the Interior;
(2) the boundary of the Refuge as established by Executive Order No. 7509 (December 11, 1936); or
(3) enforcement of any right retained by the United States.
(c) Reinstatement.-- If, at any time after the date of enactment of this Act, the Secretary or the Secretary of the Interior reacquires land conveyed under this title, any public land withdrawal revoked under this section shall be reinstated with respect to the reacquired land.
**Sec. 810. [Authorization of Appropriations.]--** There are authorized to be appropriated such sums as are necessary to carry out this title.
**TITLE IX--MISSOURI RIVER RESTORATION, SOUTH DAKOTA**
**Sec. 901. [Short Title.]--** This title may be cited as the "Missouri River Restoration Act of 2000".
**Sec. 902. [Findings and Purposes.]--**
(a) Findings.-- Congress finds that--
(1) the Missouri River is--
(A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and
(B) a critical source of water for drinking and irrigation;
(2) millions of people fish, hunt, and camp along the Missouri River each year;
(3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;
(4) the Missouri River provides critical wildlife habitat for threatened and endangered species;
(5) in 1944, Congress approved the Pick-Sloan program--
(A) to promote the general economic development of the United States;
(B) to provide for irrigation above Sioux City, Iowa;
(C) to protect urban and rural areas from devastating floods of the Missouri River; and
(D) for other purposes;
(6) the Oahe, Big Bend, Fort Randall, and Gavins Point Dams were constructed on the Missouri River in South Dakota under the Pick-Sloan program;
(7) the dams referred to in paragraph (6)--
(A) generate low-cost electricity for millions of people in the United States;
(B) provide revenue to the Treasury; and
(C) provide flood control that has prevented billions of dollars of damage;
(8) the Oahe, Big Bend, Fort Randall, and Gavins Point Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Oahe, Lake Sharpe, Lake Francis Case, and Lewis and Clark Lake;

(9) the sediment depositions--

(A) cause shoreline flooding;

(B) destroy wildlife habitat;

(C) limit recreational opportunities;

(D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;

(E) reduce water quality; and

(F) threaten intakes for drinking water and irrigation; and

(10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program--

(A) to improve conservation;

(B) to reduce the deposition of sediment; and

(C) to take other steps necessary for proper management of the Missouri River.

(b) Purposes.-- The purposes of this title are--

(1) to reduce the siltation of the Missouri River in the State of South Dakota;

(2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy—

(A) to improve conservation in the Missouri River watershed;

(B) to protect recreation on the Missouri River from sedimentation;

(C) to improve water quality in the Missouri River;

(D) to improve erosion control along the Missouri River; and

(E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and

(3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

**Sec. 903. [Definitions.]--** In this title, the following definitions apply:

(1) Pick-Sloan program.-- The term “Pick-Sloan program" means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891).

(2) Plan.-- The term “plan" means the plan for the use of funds made available by this title that is required to be prepared under section 905(e).

(3) State.--The term “State" means the State of South Dakota.

(4) Task force.-- The term “Task Force" means the Missouri River Task Force established by section 905(a).

(5) Trust.--The term “Trust" means the Missouri River Trust established by section 904(a).

**Sec. 904. [Missouri River Trust.]--**

(a) Establishment.-- There is established a committee to be known as the Missouri River Trust.

(b) Membership.-- The Trust shall be composed of 25 members to be appointed by the Secretary, including--

(1) 15 members recommended by the Governor of South Dakota that--

(A) represent equally the various interests of the public; and

(B) include representatives of—

(i) the South Dakota Department of Environment and Natural Resources;

(ii) the South Dakota Department of Game, Fish, and Parks;

(iii) environmental groups;

(iv) the hydroelectric power industry;

(v) local governments;
(vi) recreation user groups;
(vii) agricultural groups; and
(viii) other appropriate interests;

(2) 9 members, 1 of each of whom shall be recommended by each of the 9 Indian tribes in the State of South Dakota; and

(3) 1 member recommended by the organization known as the “Three Affiliated Tribes of North Dakota" (composed of the Mandan, Hidatsa, and Arikara tribes).

**Sec. 905. [Missouri River Task Force.]--**

(a) Establishment.-- There is established the Missouri River Task Force.

(b) Membership.-- The Task Force shall be composed of--

(1) the Secretary (or a designee), who shall serve as Chairperson;
(2) the Secretary of Agriculture (or a designee);
(3) the Secretary of Energy (or a designee);
(4) the Secretary of the Interior (or a designee); and
(5) the Trust.

(c) Duties.-- The Task Force shall--

(1) meet at least twice each year;

(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;

(3) review projects to meet the goals of the plan; and

(4) recommend to the Secretary critical projects for implementation.

(d) Assessment.--

(1) In general.-- Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall submit to the other members of the Task Force a report on--

(A) the impact of the siltation of the Missouri River in the State, including the impact on—

(i) the Federal, State, and regional economies;
(ii) recreation;
(iii) hydropower generation;
(iv) fish and wildlife; and
(v) flood control;

(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;

(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and

(D) other issues, as requested by the Task Force.

(2) Consultation.-- In preparing the report under paragraph (1), the Secretary shall consult with--

(A) the Secretary of Energy;
(B) the Secretary of the Interior;
(C) the Secretary of Agriculture;
(D) the State; and (E) Indian tribes in the State.

(e) Plan for Use of Funds Made Available by This Title.--

(1) In general.--Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.

(2) Contents of plan.-- The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote—

(A) conservation practices in the Missouri River watershed;

(B) the general control and removal of sediment from the Missouri River;

(C) the protection of recreation on the Missouri River from sedimentation;

(D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;

(E) erosion control along the Missouri River; or

(F) any combination of the activities described in subparagraphs (A) through (E).

(3) Plan review and revision.--

(A) In general.-- The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final, in accordance with procedures established by the Task Force.

(B) Revision of plan.—

(i) In general.-- The Task Force may, on an annual basis, revise the plan.

(ii) Public review and comment.-- In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.

(f) Critical Restoration Projects.--

(1) In general.-- After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.

(2) Agreement.-- The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.

(3) Indian projects.-- To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are--

(A) within the boundary of an Indian reservation; or

(B) administered by an Indian tribe.

(g) Cost Sharing.--

(1) Assessment.--

(A) Federal share.-- The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.

(B) Non-federal share.-- The Non-Federal share of the cost of carrying out the assessment may be provided in the form of services, materials, or other in-kind contributions.

(2) Plan.--

(A) Federal share.— The Federal share of the cost of preparing the plan under subsection (e) shall be 75 percent.

(B) Non-federal share.--Not more than 50 percent of the non-Federal share of the cost of preparing the plan may be provided in the form of services, materials, or other in-kind contributions.

(3) Critical restoration projects.--

(A) In general.-- A Non-Federal cost share shall be required to carry out any critical restoration project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.

(B) Federal share.-- The Federal share of the cost of carrying out a project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed $5,000,000 for any critical restoration project.

(C) Non-federal share.—

(i) In general.--Not more than 50 percent of the non-Federal share of the cost of carrying out a project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.

(ii) Required non-federal contributions.— For any project described in subparagraph (B), the non-Federal interest shall—

(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(iii) Credit.-- The Secretary shall credit the non-Federal interest for all contributions provided under clause (ii)(I).

**Sec. 906. [Administration.]--**

(a) In General.--Nothing in this title diminishes or affects--

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian tribe;

(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including--

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

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

(b) Federal Liability for Damage.-- Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.
(c) Flood Control.-- Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Flood Control Act of December 22, 1944 (33 U.S.C. 701-1 et seq.; 58 Stat. 887).
(d) Use of Funds.-- Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

**Sec. 907. [Authorization of Appropriations.]--**

(a) In General.-- There is authorized to be appropriated to the Secretary to carry out this title $10,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.
(b) Existing Programs.-- The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

Approved December 11, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2796:
HOUSE REPORT: No. 106-1020, Comm. of Conference, Oct. 31, 2000.
SENATE REPORT: No. 106-362, Comm. on Environment and Public Works, July 27, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, As Enrolled, December 5, 2000.
Senate Bill, August 18, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
June 27, Senate Sponsor Remarks, Pg. S5887-900
Sept. 21, considered in the Senate, S8885-933, Pg. S8960-92
Sept. 25, considered and passed Senate, Pg. S9142-81.
Oct. 19, considered and passed House, amended, Pg. H10290-365.
Oct. 31, Senate agreed to conference report, Pg. H11624-67.
Nov. 3, House agreed to conference report, H11816-31.
Presidential Signing Statement, Dec. 11, 2000

December 19, 2000

## MANCOS WATER CONSERVANCY DISTRICT

An Act To authorize the Secretary of the Interior to contract with the Mancos Water Conservancy District to use the Mancos Project facilities for impounding, storage, diverting, and carriage of nonproject water for the purpose of irrigation, domestic, municipal, industrial, and any other beneficial purposes. (An act of December 19, 2000, Public Law 106-549, 114 Stat. 2743)

**[Section 1. Carriage of Nonproject Water by the Mancos Project, Colorado.]--**

(a) Sale of Excess Water.--

(1) In general.-- In carrying out the Act of August 11, 1939 (commonly known as the "Water Conservation and Utilization Act") (16 U.S.C. 590y et seq.), if storage or carrying capacity has been or may be provided in excess of the requirements of the land to be irrigated under the Mancos Project, Colorado (referred to in this Act as the "project"), the Secretary of the Interior may, on such terms as the Secretary determines to be just and equitable, contract with the Mancos Water Conservancy District and any of its member unit contractors for impounding, storage, diverting, or carriage of nonproject water for irrigation, domestic, municipal, industrial, and any other beneficial purposes, to an extent not exceeding the excess capacity.

(2) Interference.--A contract under paragraph (1) shall not impair or otherwise interfere with any authorized purpose of the project.

(3) Cost considerations.--In fixing the charges under a contract under paragraph (1), the Secretary shall take into consideration--

(A) the cost of construction and maintenance of the project, by which the nonproject water is to be diverted, impounded, stored, or carried; and

(B) the canal by which the water is to be carried.

(4) No additional charges.-- The Mancos Water Conservancy District shall not impose a charge for the storage, carriage, or delivery of the nonproject water in excess of the charge paid to the United States, except to such extent as may be reasonably necessary to cover--

(A) a proportionate share of the project cost; and

(B) the cost of carriage and delivery of the nonproject water through the facilities of the Mancos Water Conservancy District.

(b) Water Rights of United States Not Enlarged.-- Nothing in this Act enlarges or attempts to enlarge the right of the United States, under existing law, to control any water in any State.

Approved December 19, 2000.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--S. 2594:

SENATE REPORT: No. 106-427, Energy and Natural Resources, Sept. 28, 2000.

CONGRESSIONAL BUDGET OFFICE; Cost Estimate; Senate Bill, Oct. 2, 2000.
Enrolled Bill, Dec. 14, 2000.

CONGRESSIONAL RECORD, Vol. 146 (2000):
Oct. 13, considered and passed Senate, Pg. S10527.
Nov. 13, Dec. 4, considered and passed House, Pg. H11846-7.

December 21, 2000

# CONSOLIDATED APPROPRIATIONS ACT, 2001

**[Extracts from]** An Act making consolidated appropriations for the fiscal year ending September 30, 201, and for other purposes. (An act of December 21, 2000, Public Law 106-554, 114 Stat. 2763)

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## APPENDIX D

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## CHAPTER 5: ENERGY AND WATER DEVELOPMENT

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**DEPARTMENT OF THE INTERIOR, Bureau of Reclamation, Water and Related Resources:**

For an additional amount for "Water and Related Resources", $2,000,000. To remain available until expended, for construction of the Mid-Dakota Rural Water System, in addition to amounts made available under the Energy and Water Appropriations Development Act, 2001.

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## DIVISION B
## TITLE I

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**Sec. 103.--**

(a) In General.--The Secretary of the Interior shall conduct a feasibility study for a Sacramento River, California, diversion project that is consistent with the Water Forum Agreement among the members of the Sacramento, California, Water Forum dated April 24, 2000, and that considers--

(1) consolidation of several of the Natomas Central Mutual Water Company's diversions;
(2) upgrading fish screens at the consolidated diversion;
(3) the diversion of 35,000 acre feet of water by the Placer County Water Agency;
(4) the diversion of 29,000 acre feet of water for delivery to the Northridge Water District;
(5) the potential to accommodate other diversions of water from the Sacramento River, subject to additional negotiations and agreement among Water Forum signatories and potentially affected parties upstream on the Sacramento River; and
(6) an inter-tie between the diversions referred to in paragraphs (3), (4), and (5) with the Northridge Water District's pipeline that delivers water from the American River.

(b) Required Components.-- The feasibility study shall include--

(1) the development of a range of reasonable options;
(2) an environmental evaluation; and
(3) consultation with Federal and State resource management agencies regarding potential impacts and mitigation measures.

(c) Water Supply Impact Alternatives.-- The study authorized by this section shall include a range of alternatives, all of which would investigate options that could reduce to insignificance any water supply impact on water users in the Sacramento River watershed, including Central Valley Project contractors, from any delivery of water out of the Sacramento River as referenced

in subsection (a). In evaluating the alternatives, the study shall consider water supply alternatives that would increase water supply for, or in, the Sacramento River watershed. The study should be coordinated with the CALFED program and take advantage of information already developed within that program to investigate water supply increase alternatives. Where the alternatives evaluated are in addition to or different from the existing CALFED alternatives, such information should be clearly identified.

(d) Habitat Management Planning Grants.-- The Secretary of the Interior, subject to the availability of appropriations, is authorized and directed to provide grants to support local habitat management planning efforts undertaken as part of the consultation described in subsection (b)(3) in the form of matching funds up to $5,000,000.

(e) Report.--The Secretary of the Interior shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 24 months from the date of enactment of this Act on the results of the study identified in subsection (a).

(f) Authorization of Appropriations.-- There is authorized to be appropriated to the Secretary of the Interior to carry out this section $10,000,000, which may remain available until expended, of which--

(1) $5,000,000 shall be for the feasibility study under subsection (a); and

(2) $5,000,000 shall be for the habitat management planning grants under subsection (d).

(g) Limitation on Construction.-- This section does not and shall not be interpreted to authorize construction of any facilities.

* * * * *

**Sec. 106. Truckee Watershed Reclamation Project.**

(a) Authorization.-- The Secretary of the Interior, in cooperation with Washoe County, Nevada, may participate in the design, planning, and construction of the Truckee watershed reclamation project, consisting of the North Valley reuse project and the Spanish Springs Valley septic conversion project, to reclaim and reuse wastewater (including degraded groundwater) within and without the service area of Washoe County, Nevada.

(b) Cost Share.-- The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

(c) Limitation.-- Funds provided by the Secretary shall not be used for the operation or maintenance of the project described in subsection (a).

(d) Reclamation Wastewater and Groundwater Study and Facilities Act.--

(1) Design, planning, and construction.--Design, planning, and construction of the project described in subsection (a) shall be in accordance with, and subject to the limitations contained in, the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.).

(2) Funding.-- Funds made available under section 1631 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-13) may be used to pay the Federal share of the cost of the project.

* * * * *

**Sec. 108. Environmental Infrastructure**.

(a) Technical, Planning, and Design Assistance.--Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835) is amended by adding at the end the following:

December 21, 2000

* * * * *

"(19) **Marana, Arizona**.--Wastewater treatment and distribution infrastructure, Marana, Arizona.

* * * * *

"(21) **Chino Hills, California**.-- Storm water and sewage collection infrastructure, Chino Hills, California.
"(22) **Clear Lake Basin, California**.-- Water-related infrastructure and resource protection, Clear Lake Basin, California.
"(23) **Desert Hot Springs, California**.-- Resource protection and wastewater infrastructure, Desert Hot Springs, California.
"(24) **Eastern Municipal Water District, California**.-- Regional water-related infrastructure, Eastern Municipal Water District, California.
"(25) **Huntington Beach, California**.-- Water supply and wastewater infrastructure, Huntington Beach, California.
"(26) Inglewood, California.-- Water infrastructure, Inglewood, California.
"(27) **Los Osos Community Service District, California**.-- Wastewater infrastructure, Los Osos Community Service District, California.
"(28) **Norwalk, California**.--Water-related infrastructure, Norwalk, California.

* * * * *

"(36) **Hood River, Oregon**.-- Water transmission infrastructure, Hood River, Oregon.
"(37) **Medford, Oregon**.-- Sewer collection infrastructure, Medford, Oregon.
"(38) **Portland, Oregon**.--Water infrastructure and resource protection, Portland, Oregon.

* * * * *

"(40) **Park City, Utah**.— Water supply infrastructure, Park City, Utah.".

* * * * *

(d) Additional Assistance for Critical Resource Projects.-- Section 219(f ) of the Water Resources Development Act of 1992; (106 Stat. 4835; 113 Stat. 335) is amended by adding at the end the following:

* * * * *

"(48) **Cambria, California**.-- $10,300,000 for desalination infrastructure, Cambria, California.
"(49) **Los Angeles Harbor/Terminal Island, California**.-- $6,500,000 for wastewater recycling infrastructure, Los Angeles Harbor/Terminal Island, California.
"(50) **North Valley Region, Lancaster, California.--** $14,500,000 for water infrastructure, North Valley Region, Lancaster, California.
"(51) **San Diego County, California**.-- $10,000,000 for water-related infrastructure, San Diego County, California.
"(52) **South Perris, California**.-- $25,000,000 for water supply desalination infrastructure, South Perris, California.

* * * * *

"(65) **Yukon, Oklahoma**.-- $5,500,000 for water-related infrastructure, including wells, booster stations, storage tanks, and transmission lines, Yukon, Oklahoma.

* * * * *

**TITLE III—COLORADO UTE SETTLEENT ACT AMENDMENTS OF 2000**
**Sec. 301. [Short Title' Findings; Definitions]--**
(a) Short Title.-- This title may be cited as the "Colorado Ute Settlement Act Amendments of 2000".

(b) Findings.--Congress makes the following findings:

(1) In order to provide for a full and final settlement of the claims of the Colorado Ute Indian Tribes on the Animas and La Plata Rivers, the Tribes, the State of Colorado, and certain of the non-Indian parties to the Agreement have proposed certain modifications to the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973).

(2) The claims of the Colorado Ute Indian Tribes on all rivers in Colorado other than the Animas and La Plata Rivers have been settled in accordance with the provisions of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973).

(3) The Indian and non-Indian communities of southwest Colorado and northwest New Mexico will be benefited by a settlement of the tribal claims on the Animas and La Plata Rivers that provides the Tribes with a firm water supply without taking water away from existing uses.

(4) The Agreement contemplated a specific timetable for the delivery of irrigation and municipal and industrial water and other benefits to the Tribes from the Animas-La Plata Project, which timetable has not been met. The provision of irrigation water can not presently be satisfied under the current implementation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

(5) In order to meet the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and in particular the various biological opinions issued by the Fish and Wildlife Service, the amendments made by this title are needed to provide for a significant reduction in the facilities and water supply contemplated under the Agreement.

(6) The substitute benefits provided to the Tribes under the amendments made by this title, including the waiver of capital costs and the provisions of funds for natural resource enhancement, result in a settlement that provides the Tribes with benefits that are equivalent to those that the Tribes would have received under the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973).

(7) The requirement that the Secretary of the Interior comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other national environmental laws before implementing the proposed settlement will ensure that the satisfaction of the tribal water rights is accomplished in an environmentally responsible fashion.

(8) In considering the full range of alternatives for satisfying the water rights claims of the Southern Ute Indian Tribe and Ute Mountain Ute Indian Tribe, Congress has held numerous legislative hearings and deliberations, and reviewed the considerable record including the following documents:

(A) The Final EIS No. INT-FES-80-18, dated July 1, 1980.

(B) The Draft Supplement to the FES No. INT-DES-92- 41, dated October 13, 1992.

(C) The Final Supplemental to the FES No. 96-23, dated April 26, 1996;

(D) The Draft Supplemental EIS, dated January 14, 2000.

(E) The Final Supplemental EIS, dated July 2000. (F) The Record of Decision for the Settlement of the Colorado Ute Indian Waters, September 25, 2000.

(9) In the Record of Decision referred to in paragraph (8)(F), the Secretary determined that the preferred alternative could only proceed if Congress amended the Colorado Ute Indian

Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973) so as to satisfy the Tribal water rights claim through the construction of the features authorized by this title. The amendments to the Colorado Ute Indian Water Rights Settlement Act of 1988 set forth in this title will provide the Ute Tribes with substitute benefits equivalent to those that the Tribes would have received under the Colorado Ute Indian Water Rights Settlement Act of 1988, in a manner consistent with paragraph (8) and the Federal Government's trust obligation.

(10) Based upon paragraph (8), it is the intent of Congress to enact legislation that implements the Record of Decision referred to in paragraph (8)(F).

(c) Definitions.-- In this title:

(1) Agreement.-- The term “Agreement" has the meaning given that term in section 3(1) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973).

(2) Animas-La Plata project.-- The term “Animas-La Plata Project" has the meaning given that term in section 3(2) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973).

(3) Dolores project.-- The term “Dolores Project" has the meaning given that term in section 3(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2974).

(4) Tribe; tribes.-- The term “Tribe" or “Tribes" has the meaning given that term in section 3(6) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2974).

**Sec. 302. [Amendments to Section 6 of the Colorado Ute Indian Water Rights Settlement Act of 1988.]--** Subsection (a) of section 6 of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2975) is amended to read as follows:

“(a) Reservoir; Municipal and Industrial Water.—

“(1) Facilities.—

“(A) In general.-- After the date of enactment of this subsection, but prior to January 1, 2005, or the date established in the Amended Final Decree described in section 18(c), the Secretary, in order to settle the outstanding claims of the Tribes on the Animas and La Plata Rivers, acting through the Bureau of Reclamation, is specifically authorized to—

“(i) complete construction of, and operate and maintain, a reservoir, a pumping plant, a reservoir inlet conduit, and appurtenant facilities with sufficient capacity to divert and store water from the Animas River to provide for an average annual depletion of 57,100 acre-feet of water to be used for a municipal and industrial water supply, which facilities shall—

“(I) be designed and operated in accordance with the hydrologic regime necessary for the recovery of the endangered fish of the San Juan River as determined by the San Juan River Recovery Implementation Program;

“(II) be operated in accordance with the Animas-La Plata Project Compact as approved by Congress in Public Law 90-537;

"(III) include an inactive pool of an appropriate size to be determined by the Secretary following the completion of required environmental compliance activities; and

"(IV) include those recreation facilities determined to be appropriate by agreement between the State of Colorado and the Secretary that shall address the payment of any of the costs of such facilities by the State of Colorado in addition to the costs described in paragraph (3); and

"(ii) deliver, through the use of the project components referred to in clause (i), municipal and industrial water allocations—

"(I) with an average depletion not to exceed 16,525 acre-feet of water, to the Southern Ute Indian Tribe for its present and future needs;

"(II) with an average annual depletion not to exceed 16,525 acre-feet of water, to the Ute Mountain Ute Indian Tribe for its present and future needs;

"(III) with an average annual depletion not to exceed 2,340 acre-feet of water, to the Navajo Nation for its present and future needs;

"(IV) with an average annual depletion not to exceed 10,400 acre-feet of water, to the San Juan Water Commission for its present and future needs;

"(V) with an average annual depletion of an amount not to exceed 2,600 acre-feet of water, to the Animas-La Plata Conservancy District for its present and future needs;

"(VI) with an average annual depletion of an amount not to exceed 5,230 acre-feet of water, to the State of Colorado for its present and future needs; and

"(VII) with an average annual depletion of an amount not to exceed 780 acre-feet of water, to the La Plata Conservancy District of New Mexico for its present and future needs.

"(B) Applicability of other federal law.--The responsibilities of the Secretary described in subparagraph (A) are subject to the requirements of Federal laws related to the protection of the environment and otherwise applicable to the construction of the proposed facilities, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Water Act (42 U.S.C. 7401 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). Nothing in this Act shall be construed to predetermine or otherwise affect the outcome of any analysis conducted by the Secretary or any other Federal official under applicable laws.

"(C) Limitation.—

"(i) In general.--If constructed, the facilities described in subparagraph (A) shall constitute the Animas-La Plata Project. Construction of any other project features authorized by Public

Law 90-537 shall not be commenced without further express authorization from Congress.

"(ii) Contingency in application.-- If the facilities described in subparagraph (A) are not constructed and operated, clause (i) shall not take effect.

"(2) Tribal construction costs.-- Construction costs allocable to the facilities that are required to deliver the municipal and industrial water allocations described in subclauses (I), (II) and (III) of paragraph (1)(A)(ii) shall be nonreimbursable to the United States.

"(3) Nontribal water capital obligations.—

"(A) In general.-- Under the provisions of section 9 of the Act of August 4, 1939 (43 U.S.C. 485h), the nontribal municipal and industrial water capital repayment obligations for the facilities described in paragraph (1)(A)(i) may be satisfied upon the payment in full of the nontribal water capital obligations prior to the initiation of construction. The amount of the obligations described in the preceding sentence shall be determined by agreement between the Secretary of the Interior and the entity responsible for such repayment as to the appropriate reimbursable share of the construction costs allocated to that entity's municipal water storage. Such repayment shall be consistent with Federal reclamation law, including the Colorado River Storage Project Act of 1956 (43 U.S.C. 620 et seq.). Such agreement shall take into account the fact that the construction of certain project facilities, including those facilities required to provide irrigation water supplies from the Animas-La Plata Project, is not authorized under paragraph (1)(A)(i) and no costs associated with the design or development of such facilities, including costs associated with environmental compliance, shall be allocable to the municipal and industrial users of the facilities authorized under such paragraph.

"(B) Nontribal repayment obligation subject to final cost allocation.-- The nontribal repayment obligation set forth in subparagraph (A) shall be subject to a final cost allocation by the Secretary upon project completion. In the event that the final cost allocation indicates that additional repayment is warranted based on the applicable entity's share of project water storage and determination of overall reimbursable cost, that entity may elect to enter into a new agreement to make the additional payment necessary to secure the full water supply identified in paragraph (1)(A)(ii). If the repayment entity elects not to enter into a new agreement, the portion of project storage relinquished by such election shall be available to the Secretary for allocation to other project purposes. Additional repayment shall only be warranted for reasonable and unforeseen costs associated with project construction as determined by the Secretary in consultation with the relevant repayment entities.

"(C) Report.-- Not later than April 1, 2001, the Secretary shall report to Congress on the status of the cost-share agreements contemplated in subparagraph (A). In the event that no agreement is reached with either the Animas-La Plata Conservancy District or the State of Colorado for the water allocations set forth in subclauses (V) and (VI) of paragraph (1)(A)(ii), those allocations shall be reallocated equally to the Colorado Ute Tribes.

"(4) Tribal water allocations.—

"(A) In general.-- With respect to municipal and industrial water allocated to a Tribe from the Animas-La Plata Project or the Dolores Project, until that water is first used by a Tribe or used pursuant to a water use contract with the Tribe, the Secretary shall pay the annual operation, maintenance, and replacement costs allocable to that municipal and industrial water allocation of the Tribe.

"(B) Treatment of costs.-- A Tribe shall not be required to reimburse the Secretary for the payment of any cost referred to in subparagraph (A).

"(5) Repayment of pro rata share.-- Upon a Tribe's first use of an increment of a municipal and industrial water allocation described in paragraph (4), or the Tribe's first use of such water pursuant to the terms of a water use contract—

"(A) repayment of that increment's pro rata share of those allocable construction costs for the Dolores Project shall be made by the Tribe; and

"(B) the Tribe shall bear a pro rata share of the allocable annual operation, maintenance, and replacement costs of the increment as referred to in paragraph (4).".

**Sec. 303. [Miscellaneous.]**-- The Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973) is amended by adding at the end the following:

"SEC. 15. NEW MEXICO AND NAVAJO NATION WATER MATTERS.

"(a) Assignment of Water Permit.--Upon the request of the State Engineer of the State of New Mexico, the Secretary shall, as soon as practicable, in a manner consistent with applicable law, assign, without consideration, to the New Mexico Animas-La Plata Project beneficiaries or to the New Mexico Interstate Stream Commission in accordance with the request of the State Engineer, the Department of the Interior's interest in New Mexico State Engineer Permit Number 2883, dated May 1, 1956, in order to fulfill the New Mexico non-Navajo purposes of the Animas-La Plata Project, so long as the permit assignment does not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to the use of the water involved.

"(b) Navajo Nation Municipal Pipeline.-- The Secretary is specifically authorized to construct a water line to augment the existing system that conveys the municipal water supplies, in an amount not less than 4,680 acre-feet per year, to the Navajo Indian Reservation at or near Shiprock, New Mexico. The Secretary shall comply with all applicable environmental laws with respect to such water line. Construction costs allocated to the Navajo Nation for such water line shall be nonreimbursable to the United States.

"(c) Protection of Navajo Water Claims.--Nothing in this Act, including the permit assignment authorized by subsection (a), shall be construed to quantify or otherwise adversely affect the water rights and the claims of entitlement to water of the Navajo Nation.

"SEC. 16. RESOURCE FUNDS.

"(a) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section, $8,000,000 for each of fiscal years 2002 through 2006. Not later than 60 days after amounts are appropriated and available to the Secretary for a fiscal year under this paragraph, the Secretary shall make a

payment to each of the Tribal Resource Funds established under subsection (b). Each such payment shall be equal to 50 percent of the amount appropriated for the fiscal year involved.

"(b) Funds.-- The Secretary shall establish a—

"(1) Southern Ute Tribal Resource Fund; and

"(2) Ute Mountain Ute Tribal Resource Fund.

"(c) Tribal Development.—

"(1) Investment.-- The Secretary shall, in the absence of an approved tribal investment plan provided for under paragraph (2), invest the amount in each Tribal Resource Fund established under subsection (b) in accordance with the Act entitled, `An Act to authorize the deposit and investment of Indian funds' approved June 24, 1938 (25 U.S.C. 162a). With the exception of the funds referred to in paragraph (3)(B)(i), the Secretary shall disburse, at the request of a Tribe, the principal and income in its Resource Fund, or any part thereof, in accordance with a resource acquisition and enhancement plan approved under paragraph (3).

"(2) Investment plan.—

"(A) In general.-- In lieu of the investment provided for in paragraph (1), a Tribe may submit a tribal investment plan applicable to all or part of the Tribe's Tribal Resource Fund, except with respect to the funds referred to in paragraph (3)(B)(i).

"(B) Approval.-- Not later than 60 days after the date on which an investment plan is submitted under subparagraph (A), the Secretary shall approve such investment plan if the Secretary finds that the plan is reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Resource Fund involved shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan, subject to subsection (d).

"(C) Compliance.-- The Secretary may take such steps as the Secretary determines to be necessary to monitor the compliance of a Tribe with an investment plan approved under subparagraph (B). The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds.

"(D) Economic development plan.--The principal and income derived from tribal investments under an investment plan approved under subparagraph (B) shall be subject to the provisions of this section and shall be expended only in accordance with an economic development plan approved under paragraph (3)(B).

"(3) Economic development plan.—

"(A) In general.-- Each Tribe shall submit to the Secretary a resource acquisition and enhancement plan for all or any portion of its Tribal Resource Fund.

"(B) Approval.--Not later than 60 days after the date on which a plan is submitted under subparagraph (A), the Secretary shall approve such plan if it is consistent with the following requirements:

"(i) With respect to at least three-fourths of the funds appropriated pursuant to this section and consistent with the long-standing practice of the Tribes and other local entities and communities to work together to use their respective water rights and resources for mutual benefit, at least three-fourths of the funds appropriated pursuant to this section shall be utilized to enhance, restore, and utilize the Tribes' natural resources in partnership with adjacent non-Indian communities or entities in the area.

"(ii) The plan must be reasonably related to the protection, acquisition, enhancement, or development of natural resources for the benefit of the Tribe and its members.

"(iii) Notwithstanding any other provision of law and in order to ensure that the Federal Government fulfills the objectives of the Record of Decision referred to in section 301(b)(8)(F) of the Colorado Ute Settlement Act Amendments of 2000 by requiring that the funds referred to in clause (i) are expended directly by employees of the Federal Government, the Secretary acting through the Bureau of Reclamation shall expend not less than one-third of the funds referred to in clause (i) for municipal or rural water development and not less than two-thirds of the funds referred to such clause for resource acquisition and enhancement.

"(C) Modification.-- Subject to the provisions of this Act and the approval of the Secretary, each Tribe may modify a plan approved under subparagraph (B).

"(D) Liability.-- The United States shall not be directly or indirectly liable for any claim or cause of action arising from the approval of a plan under this paragraph, or from the use and expenditure by the Tribe of the principal or interest of the Funds.

"(d) Limitation on Per Capita Distributions.-- No part of the principal contained in the Tribal Resource Fund, or of the income accruing to such funds, or the revenue from any water use contract, shall be distributed to any member of either Tribe on a per capita basis.

"(e) Limitation on Setting Aside Final Consent Decree.-- Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because the requirements of subsection (c) are not complied with or implemented.

“(f) Limitation on Disbursement of Tribal Resource Funds.-- Any funds appropriated under this section shall be placed into the Southern Ute Tribal Resource Fund and the Ute Mountain Ute Tribal Resource Fund in the Treasury of the United States but shall not be available for disbursement under this section until the final settlement of the tribal claims as provided in section 18. The Secretary of the Interior may, in the Secretary's sole discretion, authorize the disbursement of funds prior to the final settlement in the event that the Secretary determines that substantial portions of the settlement have been completed. In the event that the funds are not disbursed under the terms of this section by December 31, 2012, such funds shall be deposited in the general fund of the Treasury.

“SEC. 17. COLORADO UTE SETTLEMENT FUND.

“(a) Establishment of Fund.-- There is hereby established within the Treasury of the United States a fund to be known as the `Colorado Ute Settlement Fund'.

“(b) Authorization of Appropriations.-- There is authorized to be appropriated to the Colorado Ute Settlement Fund such funds as are necessary to complete the construction of the facilities described in sections 6(a)(1)(A) and 15(b) within 7 years of the date of enactment of this section. Such funds are authorized to be appropriated for each of the first 5 fiscal years beginning with the first full fiscal year following the date of enactment of this section.

“SEC. 18. FINAL SETTLEMENT.

“(a) In General.-- The construction of the facilities described in section 6(a)(1)(A), the allocation of the water supply from those facilities to the Tribes as described in that section, and the provision of funds to the Tribes in accordance with section 16 and the issuance of an amended final consent decree as contemplated in subsection (c) shall constitute final settlement of the tribal claims to water rights on the Animas and La Plata Rivers in the State of Colorado.

“(b) Statutory Construction.-- Nothing in this section shall be construed to affect the right of the Tribes to water rights on the streams and rivers described in the Agreement, other than the Animas and La Plata Rivers, to receive the amounts of water dedicated to tribal use under the Agreement, or to acquire water rights under the laws of the State of Colorado.

“(c) Action by the Attorney General.-- The Attorney General shall file with the District Court, Water Division Number 7, of the State of Colorado, such instruments as may be necessary to request the court to amend the final consent decree to provide for the amendments made to this Act under the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000. The amended final consent decree shall specify terms and conditions to provide for an extension of the current January 1, 2005, deadline for the Tribes to commence litigation of their reserved rights claims on the Animas and La Plata Rivers.

"SEC. 19. STATUTORY CONSTRUCTION; TREATMENT OF CERTAIN FUNDS.

"(a) In General.--Nothing in the amendments made by the Colorado Ute Settlement Act Amendments of 2000 shall be construed to affect the applicability of any provision of this Act.

"(b) Treatment of Uncommitted Portion of Cost-Sharing Obligation.-- The uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in section 6(a)(3) shall be made available, upon the request of the State of Colorado, to the State of Colorado after the date on which payment is made of the amount specified in that section.".

* * * * *

**TITLE VI--DAKOTA WATER RESOURCES ACT OF 2000**

**Sec. 601. [Short Title.]--** This title may be cited as the "Dakota Water Resources Act of 2000".

**Sec. 602. [Purposes and Authorization.]--** Section 1 of Public Law 89-108 (79 Stat. 433; 100 Stat. 418) is amended--

(1) in subsection (a)—

(A) in paragraph (2), by striking "of" and inserting "within";

(B) in paragraph (5), by striking "more timely" and inserting "appropriate"; and

(C) in paragraph (7), by striking "federally-assisted water resource development project providing irrigation for 130,940 acres of land" and inserting "multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows";

(2) in subsection (b)--

(A) by inserting ", jointly with the State of North Dakota," after "construct";

(B) by striking "the irrigation of 130,940 acres" and inserting "irrigation";

(C) by striking "fish and wildlife conservation" and inserting "fish, wildlife, and other natural resource conservation";

(D) by inserting "augmented stream flows, ground water recharge," after "flood control,"; and

(E) by inserting "(as modified by the Dakota Water Resources Act of 2000)" before the period at the end;

(3) in subsection (e), by striking "terminated" and all that follows and inserting "terminated."; and

(4) by striking subsections (f ) and (g) and inserting the following:

"(f ) Costs.—

"(1) Estimate.-- The Secretary shall estimate—

"(A) the actual construction costs of the facilities (including mitigation facilities) in existence as of the date of enactment of the Dakota Water Resources Act of 2000; and

"(B) the annual operation, maintenance, and replacement costs associated with the used and unused capacity of the features in existence as of that date.

"(2) Repayment contract.-- An appropriate repayment contract shall be negotiated that provides for the making of a payment for each payment period in

an amount that is commensurate with the percentage of the total capacity of the project that is in actual use during the payment period.

"(3) Operation and maintenance costs.-- Except as otherwise provided in this Act or Reclamation Law—

"(A) The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share of unit facilities in existence on the date of enactment of the Dakota Water Resources Act of 2000 attributable to the capacity of the facilities (including mitigation facilities) that remain unused;

"(B) The State of North Dakota shall be responsible for costs of operation and maintenance of the proportionate share of existing unit facilities that are used and shall be responsible for the full costs of operation and maintenance of any facility constructed after the date of enactment of the Dakota Water Resources Act of 2000; and

"(C) The State of North Dakota shall be responsible for the costs of providing energy to authorized unit facilities.

"(g) Agreement Between the Secretary and the State.-- The Secretary shall enter into one or more agreements with the State of North Dakota to carry out this Act, including operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State.

"(h) Boundary Waters Treaty of 1909.—

"(1) Delivery of water into the Hudson Bay Basin.--Prior to construction of any water systems authorized under this Act to deliver Missouri River water into the Hudson Bay basin, the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate treatment can be provided to meet the requirements of the Treaty between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington, January 11, 1909 (26 Stat. 2448; TS 548) (commonly known as the Boundary Waters Treaty of 1909).

"(2) Costs.-- All costs of construction, operation, maintenance, and replacement of water treatment and related facilities authorized by this Act and attributable to meeting the requirements of the treaty referred to in paragraph (1) shall be nonreimbursable.".

**Sec. 603. [Fish and Wildlife.]**-- Section 2 of Public Law 89-108 (79 Stat. 433; 100 Stat. 419) is amended--

(1) by striking subsections (b), (c), and (d) and inserting the following:

"(b) Fish and Wildlife Costs.-- All fish and wildlife enhancement costs incurred in connection with waterfowl refuges, waterfowl production areas, and wildlife conservation areas proposed for Federal or State administration shall be nonreimbursable.

"(c) Recreation Areas.—

"(1) Costs.-- If non-Federal public bodies continue to agree to administer land and water areas approved for recreation and agree to bear not less than 50 percent of the separable costs of the unit allocated to recreation and attributable to those areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be nonreimbursable.

"(2) Approval.-- The recreation areas shall be approved by the Secretary in consultation and coordination with the State of North Dakota.

"(d) Non-Federal Share.-- The Non-Federal share of the separable capital costs of the unit allocated to recreation shall be borne by non-Federal interests, using the following methods, as the Secretary may determine to be appropriate:

"(1) Services in kind.

"(2) Payment, or provision of lands, interests therein, or facilities for the unit.

"(3) Repayment, with interest, within 50 years of first use of unit recreation facilities.";

(2) in subsection (e)--

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting "(1)" after "(e)";

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the first sentence--

(I) by striking "within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement" and inserting "to administer for recreation"; and

(II) by striking "which are not included within Federal waterfowl refuges and waterfowl production areas"; and

(ii) in the second sentence, by striking "or fish and wildlife enhancement"; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking ", within ten years after initial operation of the unit,"; and

(ii) by striking "paragraph (1) of this subsection" and inserting "paragraph (2)";

(3) in subsection (f), by striking "and fish and wildlife enhancement"; and

(4) in subsection ( j)—

(A) in paragraph (1), by striking "prior to the completion of construction of Lonetree Dam and Reservoir"; and

(B) by adding at the end the following:

"(4) Taayer Reservoir.-- Taayer Reservoir is deauthorized as a project feature. The Secretary, acting through the Commissioner of Reclamation, shall acquire (including acquisition through donation or exchange) up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary shall acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary shall provide for appropriate visitor access and control at the refuge.

"(5) Deauthorization of Lonetree Dam and Reservoir.--The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site as a wildlife conservation area. The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the wildlife conservation area as an enhancement feature, the costs of which shall be paid by the Secretary.".

**Sec. 604. [Interest Calculation.]--** Section 4 of Public Law 89-108 (100 Stat. 435) is amended by adding at the end the following: "Interest during construction shall be calculated only until

such date as the Secretary declares any particular feature to be substantially complete, regardless of whether the feature is placed into service.".

**Sec. 605. [Irrigation Facilities.]--** Section 5 of Public Law 89-108 (100 Stat. 419) is amended--

(1) by striking "Sec. 5. (a)(1)" and all that follows through subsection (c) and inserting the following:

"SEC. 5. IRRIGATION FACILITIES. "(a) In General.—

"(1) Authorized development.--In addition to the 5,000-acre Oakes Test Area in existence on the date of enactment of the Dakota Water Resources Act of 2000, the Secretary may develop irrigation in—

"(A) the Turtle Lake service area (13,700 acres);

"(B) the McClusky Canal service area (10,000 acres); and

"(C) if the investment costs are fully reimbursed without aid to irrigation from the Pick-Sloan Missouri Basin Program, the New Rockford Canal service area (1,200 acres).

"(2) Development not authorized.-- None of the irrigation authorized by this section may be developed in the Hudson Bay/Devils Lake Basin.

"(3) No excess development.-- The Secretary shall not develop irrigation in the service areas described in paragraph (1) in excess of the acreage specified in that paragraph, except that the Secretary shall develop up to 28,000 acres of irrigation in other areas of North Dakota (such as the Elk/Charbonneau, Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer areas) that are not located in the Hudson Bay/Devils Lake drainage basin or James River drainage basin.

"(4) Pumping power.-- Irrigation development authorized by this section shall be considered authorized units of the Pick-Sloan Missouri Basin Program and eligible to receive project pumping power.

"(5) Principal supply works.-- The Secretary shall maintain the Snake Creek Pumping Plant, New Rockford Canal, and McClusky Canal features of the principal supply works. Subject to the provisions of section (8) of this Act, the Secretary shall select a preferred alternative to implement the Dakota Water Resources Act of 2000. In making this selection, one of the alternatives the Secretary shall consider is whether to connect the principal supply works in existence on the date of enactment.";

(2) by redesignating subsections (d), (e), and (f ) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking "(a)(1)" and inserting "(a)";

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking "Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)" and inserting "Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary,"; and

(5) by adding at the end the following:

"(e) Irrigation Report to Congress.—

"(1) In general.--The Secretary shall investigate and prepare a detailed report on the undesignated 28,000 acres in subsection (a)(3) as to costs and benefits for any irrigation units to be developed under Reclamation law.

"(2) Finding.-- The report shall include a finding on the economic, financial and engineering feasibility of the proposed irrigation unit, but shall be limited to the undesignated 28,000 acres.

"(3) Authorization.-- If the Secretary finds that the proposed construction is feasible, such irrigation units are authorized without further Act of Congress.
"(4) Documentation.--No expenditure for the construction of facilities authorized under this section shall be made until after the Secretary, in cooperation with the State of North Dakota, has prepared the appropriate documentation in accordance with section 1 and pursuant to the
National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and indirect impacts of implementing the report.".

* * * * *

Approved December 21, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 4577 (S. 2553):
House Report: No. 106-1033, Comm. on Conference, Dec. 15, 2000.
CONGRESSIONAL BUDGET OFFICE: Pay-As-You-Go Estimate, Final Bill, April 24, 2000.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):
Dec. 21, Presidential remarks and statement.

December 23, 2000

# HAWAII WATER RESOURCES ACT OF 2000

An Act to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii, and for other purposes. (An act of December 23, 2000, Public Law 106-566, 14 Stat 2818)

**[Section 101. Short Title.]**-- This title may be cited as the "Hawaii Water Resources Act of 2000".

**Sec. 102. [Definitions.]**-- In this title:

(1) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(2) State.--The term "State" means the State of Hawaii.

**Sec. 103. [Hawaii Water Resources Study.]--**

**(a) In General**.--The Secretary, acting through the Commissioner of Reclamation and in accordance with the provisions of this title and existing legislative authorities as may be pertinent to the provisions of this title, including: The Act of August 23, 1954 (68 Stat. 773, chapter 838), authorizing the Secretary to investigate the use of irrigation and reclamation resource needs for areas of the islands of Oahu, Hawaii, and Molokai in the State of Hawaii; section 31 of the Hawaii Omnibus Act (43 U.S.C. 422l) authorizing the Secretary to develop Reclamation projects in the State under the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 422a et seq.) (commonly known as the "Small Reclamation Projects Act"); and the amendment made by section 207 of the Hawaiian Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 386a) authorizing the Secretary to assess charges against Native Hawaiians for reclamation cost recovery in the same manner as charges are assessed against Indians or Indian tribes; is authorized and directed to conduct a study that includes--

(1) a survey of the irrigation and other agricultural water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and other agricultural water delivery systems;

(3) an evaluation of options and alternatives for future use of the irrigation and other agricultural water delivery systems (including alternatives that would improve the use and conservation of water resources and would contribute to agricultural diversification, economic development, and improvements to environmental quality); and

(4) the identification and investigation of opportunities for recycling, reclamation, and reuse of water and wastewater for agricultural and nonagricultural purposes.

**(b) Reports**.--

(1) In general.--Not later than 2 years after appropriation of funds authorized by this title, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(2) Additional reports.-- The Secretary shall submit to the committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) Cost Sharing.-- Costs of conducting the study and preparing the reports described in subsections (a) and (b) of this section shall be shared between the Secretary and the State. The Federal share of the costs of the study and reports shall not exceed 50 percent of the total cost, and shall be nonreimbursable. The Secretary shall enter into a written agreement with the State, describing the arrangements for payment of the non-Federal share.
(d) Use of Outside Contractors.-- The Secretary is authorized to employ the services and expertise of the State and/or the services and expertise of a private consultant employed under contract with the State to conduct the study and prepare the reports described in this section if the State requests such an arrangement and if it can be demonstrated to the satisfaction of the Secretary that such an arrangement will result in the satisfactory completion of the work authorized by this section in a timely manner and at a reduced cost. (e) Authorization of Appropriations.-- There are authorized to be appropriated $300,000 for the Federal share of the activities authorized under this title.

**Sec. 104. [Water Reclamation and Reuse.]**

(a) Section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: ", and the State of Hawaii".
(b) The Secretary is authorized to use the authorities available pursuant to section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) to conduct the relevant portion of the study and preparation of the reports authorized by this title if the use of such authorities is found by the Secretary to be appropriate and cost-effective, and provided that the total Federal share of costs for the study and reports does not exceed the amount authorized in section 103.

**TITLE II--DROUGHT RELIEF**

**Sec. 201. [Drought Relief.]--**

(a) Relief for Hawaii.--Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended--

(1) in subsection (a), by inserting after "Reclamation State" the following: "and in the State of Hawaii"; and

(2) in subsection (c), by striking "ten years after the date of enactment of this Act" and inserting "on September 30, 2005".

(b) Assistance for Drought-Related Planning in Reclamation States.-- Such Act is further amended by adding at the end of title I the following:

"SEC. 105. ASSISTANCE FOR DROUGHT-RELATED PLANNING IN RECLAMATION STATES.

"(a) In General.-- The Secretary may provide financial assistance in the form of cooperative agreements in States that are eligible to receive drought assistance under this title to promote the development of drought contingency plans under title II.

"(b) Report.--Not later than one year after the date of the enactment of the Hawaii Water Resources Act of 2000, the Secretary shall submit to the Congress a report and recommendations on the advisability of providing financial assistance for the development of drought contingency plans in all entities that are eligible to receive assistance under title II.".

**TITLE III--CITY OF ROSEVILLE PUMPING PLANT FACILITIES**

**Sec. 301. [City of Roseville Pumping Plant Facilities: Credit for Installation of Additional Pumping Plant Facilities in Accordance with Agreement.]--**

(a) In General.--The Secretary shall credit an amount up to $1,164,600, the precise amount to be determined by the Secretary through a cost allocation, to the unpaid capital obligation of the City of Roseville, California (in this section referred to as the “City"), as such obligation is calculated in accordance with applicable Federal reclamation law and Central Valley Project rate setting policy, in recognition of future benefits to be accrued by the United States as a result of the City's purchase and funding of the installation of additional pumping plant facilities in accordance with a letter of agreement with the United States numbered 5-07-20-X0331 and dated January 26, 1995. The Secretary shall simultaneously add an equivalent amount of costs to the capital costs of the Central Valley Project, and such added costs shall be reimbursed in accordance with reclamation law and policy.

(b) Effective Date.-- The credit under subsection (a) shall take effect upon the date on which--

(1) the City and the Secretary have agreed that the installation of the facilities referred to in subsection (a) has been completed in accordance with the terms and conditions of the letter of agreement referred to in subsection (a); and

(2) the Secretary has issued a determination that such facilities are fully operative as intended.

**TITLE IV--CLEAR CREEK DISTRIBUTION SYSTEM CONVEYANCE**

**Sec. 401. [Short Title.]--** This title may be cited as the “Clear Creek Distribution System Conveyance Act".

**Sec. 402. [Definitions.]--** For purposes of this title:

(1) Secretary.-- The term “Secretary" means the Secretary of the Interior.

(2) District.-- The term “District" means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) Agreement.-- The term “Agreement" means Agreement No. 8-07-20-L6975 entitled “Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District".

(4) Distribution system.--The term “Distribution System" means all the right, title, and interest in and to the Clear Creek distribution system as defined in the Agreement.

**Sec. 403. [Conveyance of Distribution System.]--** In consideration of the District accepting the obligations of the Federal Government for the Distribution System, the Secretary shall convey the Distribution System to the District pursuant to the terms and conditions set forth in the Agreement.

**Sec. 404. [Relationship to Existing Operations.]--** Nothing in this title shall be construed to authorize the District to construct any new facilities or to expand or otherwise change the use or operation of the Distribution System from its authorized purposes based upon historic and current use and operation. Effective upon transfer, if the District proposes to alter the use or operation of the Distribution System, then the District shall comply with all applicable laws and regulations governing such changes at that time.

**Sec. 405. [Relationship to Certain Contract Obligations.]--** Conveyance of the Distribution System under this title--

(1) shall not affect any of the provisions of the District's existing water service contract with the United States (contract number 14-06-200-489-IR3), as it may be amended or supplemented; and
(2) shall not deprive the District of any existing contractual or statutory entitlement to subsequent interim renewals of such contract or to renewal by entering into a long-term water service contract.

**Sec. 406. [Liability.]--** Effective on the date of conveyance of the Distribution System under this title, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

**TITLE V--SUGAR PINE DAM AND RESERVOIR CONVEYANCE**

**Sec. 501. [Short Title.]--** This title may be cited as the "Sugar Pine Dam and Reservoir Conveyance Act".

**Sec. 502. [Definitions.]--** In this title:

(1) Bureau.-- The term "Bureau" means the Bureau of Reclamation.

(2) District.--The term "District" means the Foresthill Public Utility District, a political subdivision of the State of California.

(3) Project.-- The term "Project" means the improvements (and associated interests) authorized in the Foresthill Divide Subunit of the Auburn-Folsom South Unit, Central Valley Project, consisting of--

(A) Sugar Pine Dam;

(B) the right to impound waters behind the dam;

(C) the associated conveyance system, holding reservoir, and treatment plant;

(D) water rights;

(E) rights of the Bureau described in the agreement of June 11, 1985, with the Supervisor of Tahoe National Forest, California; and

(F) other associated interests owned and held by the United States and authorized as part of the Auburn-Folsom South Unit under Public Law 89-161 (79 Stat. 615).

(4) Secretary.--The term "Secretary" means the Secretary of the Interior.

(5) Water services contract.-- The term "Water Services Contract" means Water Services Contract #14-06-200-3684A, dated February 13, 1978, between the District and the United States.

**Sec. 503. [Conveyance of the Project.]--**

(a) In General.-- As soon as practicable after date of the enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the Project to the District.

(b) Sale Price.--Except as provided in subsection (c), on payment by the District to the Secretary of $2,772,221--

(1) the District shall be relieved of all payment obligations relating to the Project; and

(2) all debt under the Water Services Contract shall be extinguished.

(c) Mitigation and Restoration Payments.-- The District shall continue to be obligated to make payments under section 3407(c) of the Central Valley Project Improvement Act (106 Stat. 4726) through 2029.

**Sec. 504. [Relationship to Existing Operation.]--**

(a) In General.-- Nothing in this title significantly expands or otherwise affects the use or operation of the Project from its current use and operation.

(b) Right To Occupy and Flood.--On the date of the conveyance under section 503, the Chief of the Forest Service shall grant the District the right to occupy and flood portions of land in Tahoe National Forest, subject to the terms and conditions stated in an agreement between the District and the Supervisor of the Tahoe National Forest.
(c) Changes in Use or Operation.-- If the District changes the use or operation of the Project, the District shall comply with all applicable laws (including regulations) governing the change at the time of the change.
**Sec. 505. [Future Benefit.]--** On payment of the amount under section 503(b)--
(1) the Project shall no longer be a Federal reclamation project or a unit of the Central Valley Project; and
(2) the District shall not be entitled to receive any further reclamation benefits.
**Sec. 506. [Liability.]--** Except as otherwise provided by law, effective on the date of conveyance under section 503, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the Project.
**Sec. 507. [Costs.]--** To the extent that costs associated with the Project are included as a reimbursable cost of the Central Valley Project, the Secretary is directed to exclude all costs in excess of the amount of costs repaid by the District from the pooled reimbursable costs of the Central Valley Project until such time as the Project has been operationally integrated into the water supply of the Central Valley Project. Such excess costs may not be included into the pooled reimbursable costs of the Central Valley Project in the future unless a court of competent jurisdiction determines that operation integration is not a prerequisite to the inclusion of such costs pursuant to Public Law 89-161.
**TITLE VI--COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT**
**Sec. 601. [Short Title.]--** This title may be cited as the “Colusa Basin Watershed Integrated Resources Management Act".
**Sec. 602. [Authorization of Assistance.]--** The Secretary of the Interior (in this title referred to as the “Secretary"), acting within existing budgetary authority, may provide financial assistance to the Colusa Basin Drainage District, California (in this title referred to as the “District"), for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Act (California Stats. 1987, Ch. 1399) as in effect on the date of the enactment of this Act (in this title referred to as the “State statute"), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to--
(1)(A) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater; (B) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or (C) construct, restore, or preserve wetland and riparian habitat; and
(2) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surface or stormwater for conservation, conjunctive use, and increased water supplies.
**Sec. 603. [Project Selection.]--**
(a) Eligible Projects.-- A project shall be an eligible project for purposes of section 602 only if it is—
(1) consistent with the plan for flood protection and integrated resources management described in the document entitled “Draft Programmatic Environmental Impact Statement/Environmental Impact Report and Draft Program Financing Plan, Integrated

Resources Management Program for Flood Control in the Colusa Basin", dated May 2000; and

(2) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.

(b) Compatibility Requirement.-- The Secretary shall ensure that projects for which assistance is provided under this title are not inconsistent with watershed protection and environmental restoration efforts being carried out under the authority of the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

**Sec. 604. [Cost Sharing]--**

(a) Non-Federal Share.-- The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay--

(1) 25 percent of the costs associated with construction of any project carried out with assistance provided under this title;

(2) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project; and

(3) 35 percent of the costs associated with planning, design, and environmental compliance activities.

(b) Planning, Design, and Compliance Assistance.-- Funds appropriated pursuant to this title may be made available to fund 65 percent of costs incurred for planning, design, and environmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.

(c) Treatment of Contributions.-- For purposes of this section, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and other easements), and necessary relocations contributed by the District to a project as a payment by the District of the costs of the project.

**Sec. 605. [Costs NonReimbursable.]--** Amounts expended pursuant to this title shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and Acts amendatory thereof and supplemental thereto.

**Sec. 606. [Agreements.]--** Funds appropriated pursuant to this title may be made available to the District or a local agency only if the District or local agency, as applicable, has entered into a binding agreement with the Secretary--

(1) under which the District or the local agency is required to pay the non-Federal share of the costs of construction required by section 604(a); and

(2) governing the funding of planning, design, and compliance activities costs under section 604(b).

**Sec. 607. [Reimbursement.]--** For project work (including work associated with studies, planning, design, and construction) carried out by the District or by a local agency acting pursuant to the State statute in section 602 before the date amounts are provided for the project under this title, the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse the District or the local agency, without interest, an amount equal to the estimated Federal share of the cost of such work under section 604.

**Sec. 608. [Cooperative Agreements.]--**

(a) In General.-- The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this title.

(b) Subcontracting.--Under such cooperative agreements and contracts, the Secretary may authorize the District to manage and let contracts and receive reimbursements, subject to amounts being made available in advance in appropriations Acts, for work carried out under such contracts or subcontracts.

**Sec. 609. [Relationship to Reclamation Reform Act of 1982.]--** Activities carried out, and financial assistance provided, under this title shall not be considered a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

**Sec. 610. [Appropriations Authorized.]--** Within existing budgetary authority and subject to the availability of appropriations, the Secretary is authorized to expend up to $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services of the types involved in the District's projects as shown by engineering and other relevant indexes to carry out this title. Sums appropriated under this section shall remain available until expended.

**TITLE VII-- CONVEYANCE TO YUMA PORT AUTHORITY**

**Sec. 701. [Conveyance to Lands to the Greater Yuma Port Authority.]**

(a) Authority to Convey.--

(1) In general.--The Secretary of the Interior, acting through the Bureau of Reclamation, may, in the 5-year period beginning on the date of the enactment of this Act and in accordance with the conditions specified in subsection (b) convey to the Greater Yuma Port Authority the interests described in paragraph (2).

(2) Interests described.-- The interests referred to in paragraph (1) are the following:

(A) All right, title, and interest of the United States in and to the lands comprising Section 23, Township 11 South, Range 24 West, G&SRBM, Lots 1-4, NE\1/4\, N\1/2\ NW\1/4\, excluding lands located within the 60-foot border strip, in Yuma County, Arizona.

(B) All right, title, and interest of the United States in and to the lands comprising Section 22, Township 11 South, Range 24 West, G&SRBM, East 300 feet of Lot 1, excluding lands located within the 60-foot border strip, in Yuma County, Arizona.

(C) All right, title, and interest of the United States in and to the lands comprising Section 24, Township 11 South, Range 24 West, G&SRBM, West 300 feet, excluding lands in the 60-foot border strip, in Yuma County, Arizona.

(D) All right, title, and interest of the United States in and to the lands comprising the East 300 feet of the Southeast Quarter of Section 15, Township 11 South, Range 24 West, G&SRBM, in Yuma County, Arizona.

(E) The right to use lands in the 60-foot border strip excluded under subparagraphs (A), (B), and (C), for ingress to and egress from the international boundary between the United States and Mexico.

(b) Deed Covenants and Conditions.-- Any conveyance under subsection (a) shall be subject to the following covenants and conditions:

(1) A reservation of rights-of-way for ditches and canals constructed or to be constructed by the authority of the United States, this reservation being of the same character and scope as that created with respect to certain public lands by the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945), as it has been, or may hereafter be amended.

(2) A leasehold interest in Lot 1, and the west 100 feet of Lot 2 in Section 23 for the operation of a Cattle Crossing Facility, currently being operated by the Yuma-Sonora Commercial Company, Incorporated. The lease as currently held contains 24.68 acres, more or less. Any renewal or termination of the lease shall be by the Greater Yuma Port Authority.

(3) Reservation by the United States of a 245-foot perpetual easement for operation and maintenance of the 242 Lateral Canal and Well Field along the northern boundary of the East 300 feet of Section 22, Section 23, and the West 300 feet of Section 24 as shown on Reclamation Drawing Nos. 1292-303-3624, 1292-303-3625, and 1292-303-3626.

(4) A reservation by the United States of all rights to the ground water in the East 300 feet of Section 15, the East 300 feet of Section 22, Section 23, and the West 300 feet of Section 24, and the right to remove, sell, transfer, or exchange the water to meet the obligations of the Treaty of 1944 with the Republic of Mexico, and Minute Order No. 242 for the delivery of salinity-controlled water to Mexico.

(5) A reservation of all rights-of-way and easement existing or of record in favor of the public or third parties.

(6) A right-of-way reservation in favor of the United States and its contractors, and the State of Arizona, and its contractors, to utilize a 33-foot easement along all section lines to freely give ingress to, passage over, and egress from areas in the exercise of official duties of the United States and the State of Arizona.

(7) Reservation of a right-of-way to the United States for a 100-foot by 100-foot parcel for each of the Reclamation monitoring wells, together with unrestricted ingress and egress to both sites. One monitoring well is located in Lot 1 of Section 23 just north of the Boundary Reserve and just west of the Cattle Crossing Facility, and the other is located in the southeast corner of Lot 3 just north of the Boundary Reserve.

(8) An easement comprising a 50-foot strip lying North of the 60-foot International Boundary Reserve for drilling and operation of, and access to, wells.

(9) A reservation by the United States of \15/16\ of all gas, oil, metals, and mineral rights.

(10) A reservation of \1/16\ of all gas, oil, metals, and mineral rights retained by the State of Arizona. (11) Such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) Consideration.--

(1) In general.--As consideration for the conveyance under subsection (a), the Greater Yuma Port Authority shall pay the United States consideration equal to the fair market value on the date of the enactment of this Act of the interest conveyed.

(2) Determination.--For purposes of paragraph (1), the fair market value of any interest in land shall be determined taking into account that the land is undeveloped, that 80 acres is intended to be dedicated to use by the United States for Federal governmental purposes, and that an additional substantial portion of the land is dedicated to public right-of-way, highway, and transportation purposes.

(d) Use.-- The Greater Yuma Port Authority and its successors shall use the interests conveyed solely for the purpose of the construction and operation of an international port of entry and related activities.

(e) Compliance With Laws.-- Before the date of the conveyance, actions required with respect to the conveyance under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other applicable Federal laws must be completed at no cost to the United States.
(f) Use of 60-Foot Border Strip.--Any use of the 60-foot border strip shall be made in coordination with Federal agencies having authority with respect to the 60-foot border strip.
(g) Description of Property.-- The exact acreage and legal description of property conveyed under this section, and of any right-of-way that is subject to a right of use conveyed pursuant to subsection (a)(2)(E), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Greater Yuma Port Authority.
(h) Definitions.—

(1) 60-foot border strip.--The term “60-foot border strip" means lands in any of the Sections of land referred to in this Act located within 60 feet of the international boundary between the United States and Mexico.
(2) Greater Yuma Port Authority.--The term “Greater Yuma Port Authority" means Trust No. 84-184, Yuma Title & Trust Company, an Arizona Corporation, a trust for the benefit of the Cocopah Tribe, a Sovereign Nation, the County of Yuma, Arizona, the City of Somerton, and the City of San Luis, Arizona, or such other successor joint powers agency or public purpose entity as unanimously designated by those governmental units.
(3) Secretary.--The term “Secretary" means the Secretary the Interior, acting through the Bureau of Reclamation.

**TITLE VIII--DICKINSON DAM BASCULE GATES SETTLEMENT**
**Sec. 801. [Short Title.]--** This title may be cited as the “Dickinson Dam Bascule Gates Settlement Act of 2000".
**Sec. 802. [Findings.]--** The Congress finds that--
(1) in 1980 and 1981, the Bureau of Reclamation constructed the bascule gates on top of the Dickinson Dam on the Heart River, North Dakota, to provide additional water supply in the reservoir known as Patterson Lake for the city of Dickinson, North Dakota, and for additional flood control and other benefits;
(2) the gates had to be significantly modified in 1982 because of damage resulting from a large ice block causing excessive pressure on the hydraulic system, causing the system to fail;
(3) since 1991, the City has received its water supply from the Southwest Water Authority, which provides much higher quality water from the Southwest Pipeline Project;
(4) the City now receives almost no benefit from the bascule gates because the City does not require the additional water provided by the bascule gates for its municipal water supply;
(5) the City has repaid more than $1,200,000 to the United States for the construction of the bascule gates, and has been working for several years to reach an agreement with the Bureau of Reclamation to alter its repayment contract;
(6) the City has a longstanding commitment to improving the water quality and recreation value of the reservoir and has been working with the United States Geological Survey, the North Dakota Department of Game and Fish, and the North Dakota Department of Health to improve water quality; and
(7) it is in the public interest to resolve this issue by providing for a single payment to the United States in lieu of the scheduled annual payments and for the termination of any further repayment obligation.

**Sec. 803. [Definitions.]--** In this title:
(1) Bascule gates.-- The term “bascule gates" means the structure constructed on the Dam to provide additional water storage capacity in the Lake.
(2) City.-- The term “City" means the city of Dickinson, North Dakota.
(3) Dam.-- The term “Dam" means Dickinson Dam on the Heart River, North Dakota.
(4) Lake.-- The term “Lake" means the reservoir known as “Patterson Lake" in the State of North Dakota.
(5) Secretary.-- The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.
**Sec. 804. [Forgiveness of Debt.]--**
(a) In General.--The Secretary shall accept a 1-time payment of $300,000 in lieu of the existing repayment obligations of the City under the Bureau of Reclamation Contract No. 9-07-60W0384, dated December 19, 1988, toward which amount any payments made by the City to the Secretary on or after June 2, 1998, shall be credited.
(b) Ownership.-- Title to the Dam and bascule gates shall remain with the United States.
(c) Costs.--

(1) The Secretary shall enter into an agreement with the City to allocate responsibilities for operation and maintenance costs of the bascule gates as provided in this subsection.
(2) The City shall be responsible for operation and maintenance costs of the bascule gates, up to a maximum annual cost of $15,000. The Secretary shall be responsible for all other costs.

(d) Water Service Contracts.-- The Secretary may enter into appropriate water service contracts if the City or any other person or entity seeks to use water from the Lake for municipal water supply or other purposes.

Approved December 23, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1694:
HOUSE REPORTS: No. 106-857, Comm. on Resources, Sept. 18, 2000.
SENATE REPORTS: No. 106-234, Comm. on Energy and Natural Resources, March 9, 2000.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Aug. 9, 2000.
Cost Estimate, Senate Bill, Feb. 22, 2000.
Pay-As-You-Go Estimate, Final Bill, Dec. 28, 2000.
CONGRESSIONAL RECORD, Vol. 146 (2000):
Apr. 13, considered and passed Senate, Pg. S2793.
Oct. 24, considered and passed House, amended, Pg. H10722.
Dec. 7, Senate concurred in House amendments, Pg. S11741.

December 28, 2000

# LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2000

An Act to direct the Secretary of the Interior, through the Bureau of Reclamation, to conserve and enhance the water supplies of the Lower Rio Grande Valley. An act of December 28, 2000, Public Law 106-576, 114 Stat. 3065)

**[Section 1. Short Title.]**-- This Act may be cited as the "Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000".

**Sec. 2. [Definitions]**-- In this Act:

(1) Commissioner.-- The term "Commissioner" means the Commissioner of the Bureau of Reclamation.

(2) Secretary.-- The term "Secretary" means the Secretary of the Interior, acting through the Commissioner.

(3) State.-- The term "State" means the Texas Water Development Board and any other authorized entity of the State of Texas.

(4) Program area.-- The term "program area" means--

(A) the counties in the State of Texas in the Rio Grande Regional Water Planning Area known as Region "M" as designated by the Texas Water Development Board; and

(B) the counties of Hudspeth and El Paso, Texas.

**Sec. 3. [Lower Rio Grande Water Conservation and Improvement Program.]--**

(a) In General.--The Secretary, acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto, shall undertake a program in cooperation with the State, water users in the program area, and other non-Federal entities, to investigate and identify opportunities to improve the supply of water for the program area as provided in this Act. The program shall include the review of studies or planning reports (or both) prepared by any competent engineering entity for projects designed to conserve and transport raw water in the program area. As part of the program, the Secretary shall evaluate alternatives in the program area that could be used to improve water supplies, including the following:

(1) Lining irrigation canals.

(2) Increasing the use of pipelines, flow control structures, meters, and associated appurtenances of water supply facilities.

(b) Program Development.--Within 6 months after the date of the enactment of this Act, the Secretary, in consultation with the State, shall develop and publish criteria to determine which projects would qualify and have the highest priority for financing under this Act. Such criteria shall address, at a minimum--

(1) how the project relates to the near- and long-term water demands and supplies in the study area, including how the project would affect the need for development of new or expanded water supplies;

(2) the relative amount of water (acre feet) to be conserved pursuant to the project;

(3) whether the project would provide operational efficiency improvements or achieve water, energy, or economic savings (or any combination of the foregoing) at a rate of acre feet of water or kilowatt energy saved per dollar expended on the construction of the project; and

(4) if the project proponents have met the requirements specified in subsection (c).

(c) Project Requirements.-- A project sponsor seeking Federal funding under this program shall--

(1) provide a report, prepared by the Bureau of Reclamation or prepared by any competent engineering entity and reviewed by the Bureau of Reclamation, that includes, among other matters--

(A) the total estimated project cost;

(B) an analysis showing how the project would reduce, postpone, or eliminate development of new or expanded water supplies;

(C) a description of conservation measures to be taken pursuant to the project plans;

(D) the near- and long-term water demands and supplies in the study area; and

(E) engineering plans and designs that demonstrate that the project would provide operational efficiency improvements or achieve water, energy, or economic savings (or any combination of the foregoing) at a rate of acre feet of water or kilowatt energy saved per dollar expended on the construction of the project;

(2) provide a project plan, including a general map showing the location of the proposed physical features, conceptual engineering drawings of structures, and general standards for design; and

(3) sign a cost-sharing agreement with the Secretary that commits the non-Federal project sponsor to funding its proportionate share of the project's construction costs on an annual basis.

(d) Financial Capability.-- Before providing funding for a project to the non-Federal project sponsor, the Secretary shall determine that the non-Federal project sponsor is financially capable of funding the project's non-Federal share of the project's costs.

(e) Review Period.-- Within 1 year after the date a project is submitted to the Secretary for approval, the Secretary, subject to the availability of appropriations, shall determine whether the project meets the criteria established pursuant to this section.

(f) Report Preparation; Reimbursement.-- Project sponsors may choose to contract with the Secretary to prepare the reports required under this section. All costs associated with the preparation of the reports by the Secretary shall be 50 percent reimbursable by the non-Federal sponsor.

(g) Authorization of Appropriations.-- There is authorized to be appropriated to the Secretary to carry out this section $2,000,000.

**Sec. 4. [Lower Rio Grande Construction Authorization.]--**

(a) Project Implementation.-- If the Secretary determines that any of the following projects meet the review criteria and project requirements, as set forth in section 3, the Secretary may conduct or participate in funding engineering work, infrastructure construction, and improvements for the purpose of conserving and transporting raw water through that project:

(1) In the Hidalgo County, Texas Irrigation District #1, a pipeline project identified in the Melden & Hunt, Inc. engineering study dated July 6, 2000 as the Curry Main Pipeline Project.

(2) In the Cameron County, Texas La Feria Irrigation District #3, a distribution system improvement project identified by the 1993 engineering study by Sigler, Winston, Greenwood and Associates, Inc.

(3) In the Cameron County, Texas Irrigation District #2 canal rehabilitation and pumping plant replacement as identified as Job Number 48-05540-002 in a report by Turner Collie & Braden, Inc. dated August 12, 1998.

(4) In the Harlingen Irrigation District Cameron #1 Irrigation District a project of meter installation and canal lining as identified in a proposal submitted to the Texas Water Development Board dated April 28, 2000.

(b) Construction Cost Share.-- The Non-Federal share of the costs of any construction carried out under, or with assistance provided under, this section shall be 50 percent. Not more than 40 percent of the costs of such an activity may be paid by the State. The remainder of the non-Federal share may include in-kind contributions of goods and services, and funds previously spent on feasibility and engineering studies.

(c) Authorization of Appropriations.-- There is authorized to be appropriated to the Secretary to carry out this section $10,000,000.

Approved December 28, 2000.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1761:
CONGRESSIONAL RECORD, Vol. 146 (2000):
Oct. 27, Senate discharges from Committee, Pg. S11276.
Dec. 4, considered and passed House, amended, Pg. H11934.
Dec. 15, Senate concurred in House amendment, Pg. S11939-40.

August 20, 2001

## LITTLE SANDY RIVER WATERSHED PROTECTION

An Act to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (An act of August 20, 2001, Public Law 107-30, 115 Stat. 210)

**[Section 1: Inclusion of Additional Portion of the Little Sandy River Watershed in the Bull Run Watershed Management Unit, Oregon.]--**

(a) In General.--Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking section 1 and inserting the following:

"SECTION 1. ESTABLISHMENT OF SPECIAL RESOURCES MANAGEMENT UNIT; DEFINITION OF SECRETARY.

"(a) Definition of Secretary.--In this Act, the term `Secretary' means—

"(1) with respect to land administered by the Secretary of Agriculture, the Secretary of Agriculture; and

"(2) with respect to land administered by the Secretary of the Interior, the Secretary of the Interior.

"(b) Establishment.—

"(1) In general.--There is established, subject to valid existing rights, a special resources management unit in the State of Oregon, comprising approximately 98,272 acres, as depicted on a map dated May 2000 and entitled `Bull Run Watershed Management Unit'.

"(2) Map.-- The map described in paragraph (1) shall be on file and available for public inspection in the offices of—

"(A) the Regional Forester-Pacific Northwest Region of the Forest Service; and

"(B) the Oregon State Director of the Bureau of Land Management.

"(3) Boundary adjustments.--The Secretary may periodically make such minor adjustments in the boundaries of the unit as are necessary, after consulting with the city and providing for appropriate public notice and hearings.".

(b) Conforming and Technical Amendments.--

(1) Secretary.-- Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking "Secretary of Agriculture" each place it appears (except subsection (b) of section 1, as added by subsection (a), and except in the amendments made by paragraph (2)) and inserting "Secretary".

(2) Applicable law.--

(A) In general.-- Section 2(a) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking "applicable to National Forest System lands" and inserting ``applicable to land under the administrative jurisdiction of the Forest Service (in the case of land administered by the Secretary of Agriculture) or applicable to land under the administrative jurisdiction of the Bureau of Land Management (in the case of land administered by the Secretary of the Interior)".

(B) Management plans.--The first sentence of section 2(c) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1426) is amended-- (i) by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)"; and (ii) by striking "through the maintenance" and inserting "(in the case of land administered by the Secretary of Agriculture) or section 202 of the Federal Land Policy and Management Act of 1976

(43 U.S.C. 1712) (in the case of land administered by the Secretary of the Interior), through the maintenance".

**Sec. 2. [Management.]--**

(a) Timber Cutting Restrictions.--Section 2(b) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1426) is amended by striking paragraph (1) and inserting the following: “(1) In general.--Subject to paragraph (2), the Secretary shall prohibit the cutting of trees on Federal land in the unit, as designated in section 1 and depicted on the map referred to in that section.".

(b) Repeal of Management Exception.-- The Oregon Resource Conservation Act of 1996 (division B of Public Law 104-208) is amended by striking section 606 (110 Stat. 3009-543).

(c) Repeal of Duplicative Enactment.-- Section 1026 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4228) and the amendments made by that section are repealed.

(d) Water Rights.-- Nothing in this section strengthens, diminishes, or has any other effect on water rights held by any person or entity.

**Sec. 3. [Land Reclassification.]**

(a) Oregon and California Railroad Land.-- Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall identify any Oregon and California Railroad land that is subject to the distribution provision of title II of the Act of August 28, 1937 (43 U.S.C. 1181f), within the boundary of the special resources management area described in section 1 of Public Law 95-200 (as amended by section 1(a)).

(b) Public Domain Land.--

(1) Definition of public domain land.--

(A) In general.--In this subsection, the term “public domain land" has the meaning given the term “public land" in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(B) Exclusion.-- The term “public domain land" does not include any land managed under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) Identification.--Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall identify public domain land within the Medford, Roseburg, Eugene, Salem, and Coos Bay Districts and the Klamath Resource Area of the Lakeview District of the Bureau of Land Management in the State of Oregon that-

(A) is approximately equal in acreage and condition as the land identified in subsection (a); but

(B) is not subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(c) Maps.--Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress and publish in the Federal Register 1 or more maps depicting the land identified in subsections (a) and (b).

(d) Reclassification.-- After providing an opportunity for public comment, the Secretary of the Interior shall administratively reclassify--

(1) the land described in subsection (a), as public domain land (as the term is defined in subsection (b)) that is not subject to the distribution provision of title II of the Act of August 28, 1937 (43 U.S.C. 1181f); and

(2) the land described in subsection (b), as Oregon and California Railroad land that is subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

**Sec. 4. [Funding For Environmental Restoration.]--** There is authorized to be appropriated to carry out, in accordance with section 323 of the Department of the Interior and Related Agencies

Appropriations Act, 1999 (16 U.S.C. 1101 note; 112 Stat. 2681-290), watershed restoration that protects or enhances water quality, or relates to the recovery of endangered species or threatened species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), in Clackamas County, Oregon, $10,000,000.

Approved August 20, 2001.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 427 (S. 254):
House Report: No. 107-151, Pt. 1, Comm. on Resources, July 23, 2001.
Senate Report: No. 107-23, accompanying S. 254, Comm. on Energy and Natural Resources, June 5, 2001.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House Bill, July 2, 2001.
Final Bill, Aug. 7, 2001.
CONGRESSIONAL RECORD, Vol. 147 (2001):
July 23, considered and passed House, July 23, 2001.
Aug. 3, considered and passed Senate, Pg. S8995.

November 12, 2001

## ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

[Excerpts from] An Act making appropriations for energy and water development for the fiscal year ending Sept. 30, 2002, and for other purposes. (An act of November 12, 2001, Public Law 107-66, 115 Stat. 486)

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### TITLE I; DEPARTMENT OF DEFENSE—CIVIL; DEPARTMENT OF THE ARMY; Corps of Engineers--Civil

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**General Investigations--** For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $154,350,000, to remain available until expended:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to continue preconstruction engineering and design of the **Murrieta Creek, California**, flood protection and environmental enhancement project and is further directed to continue with the project in accordance with cost sharing established for the Murrieta Creek project in Public Law 106-377:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use the feasibility report prepared under the authority of section 205 of the Flood Control Act of 1948, as amended, as the basis for the **Rock Creek-Keefer Slough Flood Control Project, Butte County, California**, and is further directed to use funds appropriated herein for preconstruction engineering and design of the project:

Provided further, That in conducting the **Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico**, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff:

* * * * *

Provided further, That using $1,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a comprehensive watershed study at full Federal expense to provide a framework for implementing activities to improve environmental quality of the **Lake Tahoe Basin** and the Secretary shall submit a feasibility level report within 30 months of enactment of this Act:

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**Construction, General--**

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Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake the Bowie County Levee Project, which is defined as Alternative B Local Sponsor Option, in the Corps of Engineers document entitled **Bowie County Local Flood Protection**, **Red River, Texas**, Project Design Memorandum No. 1, Bowie County Levee, dated April 1997:

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Provided further, That using $500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the **Shoalwater Bay Shoreline, Washington**, project:

Provided further, That all studies for the **Shoalwater Bay Shoreline project** shall be cost shared in the same proportion as the construction implementation costs:

Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the **Jicarilla Municipal Water System** in the town of **Dulce, New Mexico**:

Provided further, That using $750,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the **Missouri River Restoration Project** and that erosion control measures implemented shall be primarily through nonstructural means such as planting of native vegetation, buffer strips, conservation easements, setbacks, and agricultural best management practices:

Provided further, That with $10,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the **Dallas Floodway Extension, Texas, project**, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

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**Operation and Maintenance, General--** For expenses necessary for the preservation, operation, maintenance, and care of existing river and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,874,803,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities:

Provided further, That using funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to perform cultural resource mitigation and recreation improvements at **Waco Lake, Texas**, at full Federal expense notwithstanding the provisions of the Water Supply Act of 1958:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to grade the basin within the Hansen Dam feature of the **Los Angeles County Drainage Area, California,** project to enhance and maintain flood capacity and to provide for future use of the basin for compatible purposes consistent with the Master Plan, including recreation and environmental restoration:

*** * * * ***

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to remove and reinstall the docks and causeway, in kind, and continue breakwater repairs at **Astoria East Boat Basin, Oregon**:

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**GENERAL PROVISIONS; Corps of Engineers--Civil**

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**Sec. 106. Guadalupe River, California**.-- The project for flood control, Guadalupe River, California, authorized by section 401 of the Water Resources Development Act of 1986, and the Energy and Water Development Appropriation Acts of 1990 and 1992, is modified to authorize the Secretary to construct the project substantially in accordance with the General Reevaluation and Environmental Report for Proposed Project Modifications, dated February 2001, at a total cost of $226,800,000, with an estimated Federal cost of $128,700,000, and estimated non-Federal cost of $98,100,000.

* * * * *

**Sec. 116.--** The Secretary may not expend funds to accelerate the schedule to finalize the Record of Decision for the revision of the Missouri River Master Water Control Manual and any associated changes to the **Missouri River Annual Operating Plan**. During consideration of revisions to the manual in fiscal year 2002, the Secretary may consider and propose alternatives for achieving species recovery other than the alternatives specifically prescribed by the United States Fish and Wildlife Service in the biological opinion of the Service. The Secretary shall consider the views of other Federal agencies, non-Federal agencies, and individuals to ensure that other congressionally authorized purposes are maintained.

**TITLE II; DEPARTMENT OF THE INTERIOR**

**Central Utah Project; Central Utah Project Completion Account--** For carrying out activities authorized by the Central Utah Project Completion Act, $34,918,000, to remain available until expended, of which $10,749,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,310,000, to remain available until expended.

**Bureau of Reclamation--** The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

**water and related resources (including transfer of funds)--** For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $762,531,000, to remain available until expended, of which $14,649,000 shall be available for transfer to the Upper Colorado River Basin Fund and $31,442,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which $8,000,000 shall be for on-reservation water development, feasibility studies, and related administrative costs under Public Law 106-163; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706:

Provided, That such transfers may be increased or decreased within the overall appropriation under this heading

Provided further:, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That $12,000,000 of the funds appropriated herein shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of division B, title I of Public Law 106-554, of which $1,000,000 shall be for remediation in the Central Basin Municipal Water District:

Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis:

Provided further, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting “2001, and 2002" in lieu of “and 2001":

Provided further, That of such funds, not more than $1,500,000 shall be available to the Secretary for completion of a feasibility study for the Santa Fe-Pojoaque Regional Water System, New Mexico:

Provided further, That the study shall be completed by September 30, 2002.

**Bureau of Reclamation Loan Program Account--** For the cost of direct loans and/or grants, $7,215,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422l):

Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended:

Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $26,000,000. In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $280,000, to remain available until expended:

Provided, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

**Central Valley Project Restoration Fund--** For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $55,039,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f ), and 3406(c)(1) of Public Law 102-575, to remain available until expended:

Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

* * * * *

**GENERAL PROVISIONS; DEPARTMENT OF THE INTERIOR**

**Sec. 201.--** In order to increase opportunities for Indian tribes to develop, manage, and protect their water resources, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants and cooperative agreements with any Indian tribe, institution of higher education, national Indian organization, or tribal organization pursuant to 31 U.S.C. 6301-6308. Nothing in this Act is intended to modify or limit the provisions of the Indian Self Determination Act (25 U.S.C. 45 et seq.).

**Sec. 202. San Gabriel Basin, California**.-- (a) Administration of Restoration Fund.-- Section 110(a)(2) of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4)

of Public Law 106-554) is amended by striking “the Secretary of the Army" and inserting “the Secretary of the Interior".

(b) Purposes of Restoration Fund.-- Section 110(a)(3)(A) of such Act is amended by striking clauses (i) and (ii) and inserting the following:

“(i) to provide grants to the San Gabriel Basin Water Quality Authority and the Central Basin Municipal Water District to reimburse such agencies for the Federal share of the costs associated with designing and constructing water quality projects to be administered by such agencies; and

“(ii) to provide grants to reimburse the San Gabriel Basin Water Quality Authority and the Central Basin Municipal Water District for the Federal share of the costs required to operate any project constructed under this section for a period not to exceed 10 years, following the initial date of operation of the project.".

(c) Cost-Sharing Limitation.-- Section 110(a)(3)(B) of such Act (114 Stat. 2763A-223) is amended by adding at the end the following: “(iii) Credits toward non-federal share.— For purposes of clause (ii), the Secretary shall credit the San Gabriel Basin Water Quality Authority with the value of all prior expenditures by non-Federal interests made after February 11, 1993, that are compatible with the purposes of this section, including--

“(I) all expenditures made by non-Federal interests to design and construct water quality projects, including expenditures associated with environmental analyses and public involvement activities that were required to implement the water quality projects in compliance with applicable Federal and State laws; and

“(II) all expenditures made by non-Federal interests to acquire lands, easements, rights-of-way, relocations, disposal areas, and water rights that were required to implement a water quality project.".

**Sec. 203.--** The Secretary of the Interior is authorized and directed to use not to exceed $1,000,000 of the funds appropriated under title II to refund amounts received by the United States as payments for charges assessed by the Secretary prior to January 1, 1994 for failure to file certain certification or reporting forms prior to the receipt of irrigation water, pursuant to sections 206 and 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff, 390ww(c)), including the amount of associated interest assessed by the Secretary and paid to the United States pursuant to section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)).

**Sec. 204**.-- Lower Colorado River Basin Development Fund.

(a) In general.-- Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States district court on May 3, 2000, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)) is met.

(b) Payment to general fund.-- If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 3 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) Authorization.-- Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

**Sec. 205**.-- (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program-- Alternative Repayment Plan" and the "SJVDP--Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 206.--** The Secretary of the Interior, in accepting payments for the reimbursable expenses incurred for the replacement, repair, and extraordinary maintenance with regard to the Valve Rehabilitation Project at the Arrowrock Dam on the Arrowrock Division of the Boise Project in Idaho, shall recover no more than $6,900,000 of such expenses according to the application of the current formula for charging users for reimbursable operation and maintenance expenses at Bureau of Reclamation facilities on the Boise Project, and shall recover this portion of such expenses over a period of 15 years.

**Sec. 207.--** None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

**Sec. 208.--** None of the funds made available in this Act may be used by the Bureau of Reclamation (either directly or by making the funds available to an entity under a contract) for the issuance of permits for, or any other activity related to the management Area, California, until the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 12151 et seq.) are met with respect to such commercial rafting activities.

**Sec. 209.--**

(a) Section 101(a)(6)(C) of the Water Resources Development Act of 1999, Public Law 106-53, is amended to read as follows: "(C) Makeup of water shortages caused by flood control operation.—

> "(i) In general.--The Secretary of the Interior shall enter into, or modify, such agreements with the Sacramento Area Flood Control Agency regarding the operation of Folsom Dam and Reservoir as may be necessary in order that, notwithstanding any prior agreement or provision of law, 100 percent of the water needed to make up for any water shortage caused by variable flood control operation during any year at Folsom Dam, and resulting in a significant impact on recreation at Folsom Reservoir shall be replaced, to the extent the water is available for purchase, by the Secretary of the Interior.
>
> "(ii) Cost sharing.--Seventy-five percent of the costs of the replacement water provided under clause (i) shall be paid for on a non-reimbursable basis by the Secretary of the

Interior at Federal expense. The remaining 25 percent of such costs shall be provided by the Sacramento Area Flood Control Agency.

"(iii) Limitation.-- To the extent that any in excess of the non-Federal share are provided by the Sacramento Area Flood Control Agency, the Secretary shall reimburse such non-Federal interests for such excess funds. Costs for replacement water may not exceed 125 percent of the current average market price for raw water, as determined by the Secretary of the Interior.".

(b) Conforming Change.-- Section 101(a)(1)(D)(ii) of the Water Resources Development Act of 1996, Public Law 104-303, is amended by striking "during" and all that follows through "thereafter".

* * * * *

This Act may be cited as the "Energy and Water Development Appropriations Act, 2002".

Approved November 12, 2001.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2311 (S. 1171):
House Report: No. 107-112, Comm. on Appropriations, June 26, 2001.
Senate Report: No. 107-39 accompanying S. 1171, Comm. on Appropriations, July 13, 2002..
CONFERENCE REPORT: No. 107-258, Comm. On Conference, Oct. 30, 2001.
CONGRESSIONAL RECORD, Vol. 147 (2001):
June 27, considered in the House, Pg. H3679-84
June 28 considered and passed House, Pg. H3717-38.
July 16, considered Senate, Pg. 7657.
July 16, considered and debated Senate, Pg. S7671–78.
July 17 considered and debated Senate, Pg. S7739-41.
July 17 considered and debated Senate, Pg. S7789-96.
July 18 considered and debated Senate, Pg. S7839-45.
July 19, considered and passed Senate, amended, Pg. S7895.
Nov. 1, Senate consideration of conference report, Pg. S11333-7.
Nov. 1, Senate consideration of conference report, Pg. S11338-40.
Nov. 1, Senate agreed to conference report, Pg. S11344.
Nov. 1 House consideration of conference report, Pg. H7599-609
Nov. 1 House agreed to conference report, Pg. H7615-6.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 37 (2001): Nov. 12,

November 12, 2001

## RECLAMATION RECREATION MANAGEMENT ACT OF 1992 AMENDMENTS

An act to amend the Reclamation Recreation Management Act of 1992 in order to provide for the security of dams, facilities, and resources under the jurisdiction of the Bureau of Reclamation. (An act of November 12, 2001, Public Law 107-69, 115 Stat. 583)

**[Section 1. Law Enforcement Authority at Bureau of Recreation Facilities]--**

(a) Public Safety Regulations—The Secretary of the Interior shall issue regulations necessary to maintain law and order and protect persons and property within Reclamation property and on Reclamation lands.

(b) Violations; Criminal Penalties.-- Any person who knowingly and willfully violates any regulation issued under subsection (a) shall be fined under chapter 227, subchapter C of title 18, United States Code, imprisoned for not more than 6 months, or both. Any person charged with a violation of a regulation issued under subsection (a) may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18, United States Code.

(c) Authorization of Law Enforcement Officers.-- The Secretary of the Interior may—

(1) authorize law enforcement personnel from the Department of the Interior to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands;

(2) authorize law enforcement personnel of any other Federal agency that has law enforcement authority (with the exception of the Department of Defense) or law enforcement personnel of any State or local government, including an Indian tribe, when deemed economical and in the public interest, through cooperative agreement or contract, to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands with such enforcement powers as may be so assigned to them by the Secretary;

(3) cooperate with any State or local government, including an Indian tribe, in the enforcement of the laws or ordinances of that State or local government; and

(4) provide reimbursement to a State or local government, including an Indian tribe, for expenditures incurred in connection with activities under paragraph (2).

(d) Powers of Law Enforcement Officers.-- A law enforcement officer authorized by the Secretary of the Interior under subsection (c) may--

(1) carry firearms within a Reclamation project or on Reclamation lands;

(2) make arrests without warrants for--

(A) any offense against the United States committed in his presence; or

(B) any felony cognizable under the laws of the United States if he has--(i) reasonable grounds to believe that the person to be arrested has committed or is committing such a felony; and(ii) such arrest occurs within a Reclamation project or on Reclamation lands or the person to be arrested is fleeing therefrom to avoid arrest;

(3) execute within a Reclamation project or on Reclamation lands any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law for any offense committed within a Reclamation project or on Reclamation lands; and 94) conduct investigations within a Reclamation project or on Reclamation lands of offenses against the United States committed within a Reclamation project or on Reclamation lands if the Federal law enforcement agency having investigative jurisdiction over the offense committed declines to investigate the offense.

(e) Legal Status of State or Local Law Enforcement Officers.--

(1) State or local officers not federal employees.--Except as otherwise provided in this section, a law enforcement officer of any State or local government, including an Indian tribe, authorized to act as a law enforcement officer under subsection (c) shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, employment discrimination, leave, unemployment compensation, and Federal benefits.

(2) Application of federal tort claims act.-- For purposes of chapter 171 of title 28, United States Code (commonly known as the Federal Tort Claims Act), a law enforcement officer of any State or local government, including an Indian tribe, shall, when acting as a law enforcement officer under subsection (c)and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be considered a Federal employee.

(3) Availability of workers compensation.-- For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or local government, including an Indian tribe, shall, when acting as a law enforcement officer under subsection (c) and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be deemed a civil service employee of the United States within the meaning of the term employee as defined in section 8101 of title 5, and the provisions of that subchapter shall apply. Benefits under such subchapter shall be reduced by the amount of any entitlement to State or local workers compensation benefits arising out of the same injury or death.

(f) Concurrent Jurisdiction.-- Nothing in this section shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency, or to affect any existing right of a State or local government, including an Indian tribe, to exercise civil and criminal jurisdiction within a Reclamation project or on Reclamation lands.

(g) Regulations.-- Except for the authority provided in section 2(c)(1), the law enforcement authorities provided for in this section may be exercised only pursuant to regulations issued by the Secretary of the Interior and approved by the Attorney General.

**Sec. 2. [Definitions.]--** In this Act:

(1) Law enforcement personnel.-- The term “law enforcement personnel" means an employee of a Federal, State, or local government agency, including an Indian tribal agency, who has successfully completed law enforcement training approved by the Secretary and is authorized to carry firearms, make arrests, and execute service of process to enforce criminal laws of his or her employing jurisdiction.

(2) Reclamation project; reclamation lands.-- The terms “Reclamation project" and “Reclamation lands" have the meaning given such terms in section 2803 of the Reclamation Projects Authorization and Adjustment Act of 1992 (16 U.S.C. 460l-32).

Approved November 12, 2001.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2925:
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; Final Bill, November 28, 2001.
CONGRESSIONAL RECORD, Vol. 147 (2001):
Oct. 23, considered and passed House, Pg. H7150.
Oct. 30, considered and passed Senate, Pg. S11248.

October 11, 2002

# BURNT, MALHEUR, OWYHEE, AND POWDER RIVER BASIN WATER OPTIMIZATION FEASIBILITY STUDY ACT OF 2002

An Act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and the Powder River basin. (An act of October 11, 2002, Public Law 107-237, 116 Stat. 1485)

**[Section 1. Short Title.]--** This Act may be cited as the "Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act of 2002".
**Sec. 2. [Study.]--** The Secretary of the Interior may conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.
**Sec. 3. [Authorization of Appropriations.]--** There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 11, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 238 (H.R. 1883):
House Report: Comm. on Resources, No. 107-638, Sept. 4, 2002
House Report: 107-363 accompanying H.R. 1883, Comm. on Resources, March 2, 2001.
Senate Report: No. 107-22, Comm. on Energy and Natural Resources, June 5, 2001.
CONGRESSIONAL RECORD: Vol. 147 (2001):
Aug. 3, considered and passed Senate, Pg. S8995-6.
CONGRESSIONAL RECORD: Vol. 148 (2002):
Sept. 24, considered and passed House, H6501.

December 2, 2002

# DAM SAFETY AND SECURITY ACT OF 2003

An Act to reauthorize the national dam safety program, and for other purposes. (An act of December 2, 2002, Public Law 107-310, 116 Stat. 2450)

**[Section 1. Short Title; Amendment of National Dam Safety Program Act.]--**
(a) Short Title.-- This Act may be cited as the "Dam Safety and Security Act of 2002".
(b) Amendment of National Dam Safety Program Act.--Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Dam Safety Program Act (33 U.S.C. 467 et seq.).
**Sec. 2. [Interagency Committee on Dam Safety.]--** Section 7(b) (33 U.S.C. 467e(b)) is amended—
(1) by striking "Federal and State programs" and inserting "Federal programs"; and
(2) by striking "through--" and all that follows through the period at the end and inserting "through coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.".
**Sec. 3. [National Dam Safety Program.]--**
(a) In General.--Section 8(a)(3) (33 U.S.C. 467f(a)(3)) is amended--
(1) in subparagraph (B) by striking "implementation plan described in subsection (e)" and inserting "strategic plan described in subsection (b)"; and
(2) in subparagraph (C) by striking "subsection (f)" and inserting "subsection (e)".
(b) Duties.--Section 8(b) (33 U.S.C. 467f(b)) is amended to read as follows:
"(b) Duties.- The Director shall prepare a strategic plan--
"(1) to establish goals, priorities, and target dates to improve the safety of dams in the United States; and
"(2) to the extent feasible, to establish cooperation and coordination with, and assistance to, interested governmental entities in all States.".
(c) Objectives.--Section 8(c) (33 U.S.C. 467f(c)) is amended--
(1) in paragraph (5) by striking "and" at the end;
(2) in paragraph (6) by striking the period at the end and inserting "; and"; and
(3) by adding at the end the following:
"(7) develop technical assistance materials, seminars, and guidelines to improve security for dams in the United States.".
(d) Functional Activities.-- Section 8(d)(3)(A) (33 U.S.C. 467f(d)(3)(A)) is amended by striking "and shall be" and all that follows through the period at the end and inserting "and shall be exercised by chairing the Board to coordinate national efforts to improve the safety of the dams in the United States.".
(e) Implementation Plan; Dam Safety Training.--
(1) In general.--Section 8 (33 U.S.C. 467f) is amended by striking subsections (e) and (g) and redesignating subsections (f) and (h) as subsections (e) and (f), respectively.
(2) Conforming amendments.--Section 2 (33 U.S.C. 467) is amended--
(A) in paragraph (1) by striking "section 8(h)" and inserting "section 8(f)"; and
(B) in paragraph (12) by striking "section 8(f)" and inserting "section 8(e)".

(f) Assistance for State Dam Safety Programs.--Section 8(e) (as redesignated by subsection (e) of this section) is amended--

(1) in paragraph (1) by striking “the Director shall provide assistance" and all that follows through the period at the end and inserting “the Director shall provide assistance with amounts made available under section 13 to assist States in establishing, maintaining, and improving dam safety programs in accordance with the criteria specified in paragraph (2).";

(2) in paragraph (2)--

(A) in the matter preceding subparagraph (A)—

(i) by striking “primary"; and

(ii) by striking “, and for a State to be eligible" and all that follows before the colon;

(B) in subparagraph (A)--

(i) in the matter preceding clause (i) by striking “For a State to be eligible for assistance under this subsection, a State" and inserting ``A State"; and

(ii) in clause (vi) by inserting “improve security," before “revise operating procedures,"; and

(3) in paragraph (3) by striking “contract" each place it appears and inserting “agreement".

(g) Board.--

(1) Establishment.--Section 8(f)(1) (as redesignated by subsection (e) of this section) is amended—

(A) by striking “The Director may establish" and inserting “The Director shall establish"; and

(B) by striking “to monitor" and all that follows through the period at the end and inserting “to monitor the safety of dams in the United States, to monitor State implementation of this section, and to advise the Director on national dam safety policy.".

(2) Voting membership.-- Section 8(f)(3) (as redesignated by subsection (e) of this section) is amended--

(A) in the paragraph heading by striking “Membership" and inserting “Voting membership";

(B) in the matter preceding subparagraph (A) by striking “11 members" and inserting “11 voting members"; and

(C) by striking subparagraphs (F) and (G) and inserting the following: “(F) 5 members shall be selected by the Director from among State dam safety officials; and “(G) 1 member shall be selected by the Director to represent the private sector.".

(3) Nonvoting membership; duties; work groups.-- Section 8(f) (as redesignated by subsection (e) of this section) is amended--

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (7), (8), and (9), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) Nonvoting membership.-- The Director, in consultation with the Board, may invite a representative of the National Laboratories of the Department of Energy and may invite representatives from Federal or State agencies or dam safety experts, as needed, to participate in meetings of the Board.

"(5) Duties.—

"(A) In general.-- The Board shall encourage the establishment and maintenance of effective programs, policies, and guidelines to enhance dam safety for the protection of human life and property throughout the United States.

"(B) Coordination and information exchange among agencies.--In carrying out subparagraph (A), the Board shall encourage coordination and information exchange among Federal and State dam safety agencies that share common problems and responsibilities for dam safety, including planning, design, construction, operation, emergency action planning, inspections, maintenance, regulation or licensing, technical or financial assistance, research, and data management.

"(6) Work groups.--The Director may establish work groups under the Board to assist the Board in accomplishing its goals. The work groups shall consist of members of the Board and other individuals selected by the Director.".

(4) Travel expenses.-- Section 8(f) (as redesignated by subsection (e) of this section) is amended by striking paragraph (8) (as redesignated by paragraph (3)(A) of this subsection) and inserting the following:

"(8) Travel expenses.—

"(A) Representatives of federal agencies.--To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a Federal agency shall be reimbursed of appropriations for travel expenses by his or her agency, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Board.

"(B) Other individuals.--To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a State agency, the member of the Board who represents the private sector, and each member of a work group created under paragraph (1) shall be reimbursed for travel expenses by FEMA, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular place of business of the member in performance of services for the Board.".

**Sec. 4. [Research.]**-- Section 9(a) (33 U.S.C. 467g) is amended--

(1) in the matter preceding paragraph (1)-- (A) by striking "in cooperation with ICODS" and inserting "in cooperation with the Board"; and (B) by inserting "and support" after "develop";

(2) in paragraph (1) by striking "and" at the end;

(3) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following: "(3) development and maintenance of information resources systems needed to support managing the safety of dams; and "(4) initiatives to guide the formulation of effective public policy and advance improvements in dam safety engineering, security, and management.".

**Sec. 5. [Dam Safety Training.]**-- The Act (33 U.S.C. 467et seq.) is amended--

(1) by redesignating sections 10, 11, and 12 as sections 11, 12, and 13, respectively; and

(2) by inserting after section 9 the following:

"SEC. 10. DAM SAFETY TRAINING. "At the request of any State that has or intends to develop a State dam safety program, the Director shall provide training for State dam safety staff and inspectors.".

**Sec. 6. [Reports.]--** Section 11 (as redesignated by section 5 of this Act) is amended by striking subsection (a) and all that follows through "(b) Biennial Reports.--".

**Sec. 7. [Authorization of Appropriations.]--**

(a) Annual Amounts.-- Section 13(a)(1) (as redesignated by section 5 of this Act) is amended- (1) by striking "sections 7, 8, and 10" and inserting "sections 7, 8, and 11"; and (2) by striking "$1,000,000 for fiscal year 1998," and all that follows through the period at the end and inserting "$6,000,000 for each of fiscal years 2003 through 2006, to remain available until expended.".

(b) Allocation.-- Section 13(a)(2) (as redesignated by section 5 of this Act) is amended-- (1) in subparagraph (A) by striking "section 8(f)" each place it appears and inserting "section 8(e)"; and (2) in subparagraph (C) by striking "needing primary assistance and States needing advanced assistance under section 8(f)".

(c) Research; Dam Safety Training; Staff.-- Section 13 (as redesignated by section 5 of this Act) is amended by striking subsections (c) through (e) and inserting the following:

"(c) Research.--There is authorized to be appropriated to carry out section 9 $1,500,000 for each of fiscal years 2003 through 2006, to remain until expended.

"(d) Dam Safety Training.-- There is authorized to be appropriated to carry out section 10 $500,000 for each of fiscal years 2003
through 2006.

"(e) Staff.-- There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 8 through 10 $600,000 for each of fiscal years 2003 through 2006.".

Approved December 2, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 4727:
House Report: No. 107-626, Comm. on Transportation and Infrastructure, Sept. 4, 2002.
CONGRESSIONAL BUDGET OFFICE REPORT, Cost Estimate House bill, Aug.30, 2002.
Senate bill, Sept. 30, 2002.
CONGRESSIONAL RECORD, Vol. 148 (2002):
Sept. 5, considered and passed House, Pg. H6065.
Nov. 14, passed Senate, Pg. S11154.

December 13, 2002

# INDIAN FINANCING AMENDMENTS ACT OF 2002

An Act to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program. [An act of December 13, 2002, Public Law 107-331, 116 Stat. 2834]

**[Section 1. Table of Contents.]**-- The table of contents for this Act is as follows:


Sec. 1. Table of contents.
TITLE I--INDIAN FINANCING ACT AMENDMENTS
Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Amendments to Indian Financing Act.
TITLE II--YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION
Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Yankton Sioux Tribe Development Trust Fund.
Sec. 205. Santee Sioux Tribe Development Trust Fund.
Sec. 206. Tribal plans.
Sec. 207. Eligibility of tribe for certain programs and services.
Sec. 208. Statutory construction.
Sec. 209. Authorization of appropriations.
Sec. 210. Extinguishment of claims.
TITLE III--OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM
Sec. 301. Oklahoma Native American Cultural Center and Museum.
TITLE IV--TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA
Sec. 401. Transmission of power from Indian lands in Oklahoma.
TITLE V--PECHANGA TRIBE
Sec. 501. Land of Pechanga Band of Luiseno Mission Indians.
TITLE VI--CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT
Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Purposes.
Sec. 604. Definitions.
Sec. 605. Settlement and claims; appropriations; allocation of funds.
Sec. 606. Tribal trust funds.
Sec. 607. Attorney fees.
Sec. 608. Release of other tribal claims and filing of claims.
Sec. 609. Effect on claims.
TITLE VII--SEMINOLE TRIBE
Sec. 701. Approval not required to validate certain land transactions.

TITLE VIII--JICARILLA APACHE RESERVATION RURAL WATER SYSTEM
Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Definitions.
Sec. 804. Jicarilla Apache Reservation rural water system.
Sec. 805. General authority.
Sec. 806. Project requirements.
Sec. 807. Authorization of appropriations.
Sec. 808. Prohibition on use of funds for irrigation purposes.
Sec. 809. Water rights.
TITLE IX--ROCKY BOY'S RURAL WATER SYSTEM
Sec. 901. Short title.
Sec. 902. Findings and purposes.
Sec. 903. Definitions.
Sec. 904. Rocky Boy's rural water system.
Sec. 905. Noncore system.
Sec. 906. Limitation on availability of construction funds.
Sec. 907. Connection charges.
Sec. 908. Authorization of contracts.
Sec. 909. Tiber Reservoir allocation to the Tribe.
Sec. 910. Use of Pick-Sloan power.
Sec. 911. Water conservation plan.
Sec. 912. Water rights.
Sec. 913. Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.
Sec. 914. Authorization of appropriations.
TITLE X--MISCELLANEOUS
Sec. 1001. Santee Sioux Tribe, Nebraska, water system study.
Sec. 1002. Yurok Tribe and Hopland Band included in long-term leasing.

**TITLE I--INDIAN FINANCING ACT AMENDMENTS**

**Sec. 101. [Short Title.]--** This Act may be cited as the “Indian Financing Amendments Act of 2002".

**Sec. 102. [Findings and Purpose.]--**

(a) Findings.--Congress finds that--

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) twenty-seven years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior--

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) Purpose.--The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to--

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

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**TITLE II--YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION**

**Sec. 201. [Short Title.]--** This title may be cited as the "Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act".

**Sec. 202. [Findings.**]-- Congress finds that--

(1) by enacting the Act of December 22, 1944, commonly known as the "Flood Control Act of 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the "Pick-Sloan program")--

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;
(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);
(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and
(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)--

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee Village.

**Sec. 203. [Definitions.]--** In this title:
(1) Indian tribe.--The term “Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).
(2) Santee Sioux tribe.--The term “Santee Sioux Tribe" means the Santee Sioux Tribe of Nebraska.
(3) Yankton Sioux tribe.--The term “Yankton Sioux Tribe" means the Yankton Sioux Tribe of South Dakota.
**Sec. 204. [Tankton Sioux Tribe Development Trust Fund.]**
(a) Establishment.-- There is established in the Treasury of the United States a fund to be known as the “Yankton Sioux Tribe Development Trust F450bund" (referred to in this section as the “Fund").
The Fund shall consist of any amounts deposited in the Fund under this title.
(b) Funding.-- On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)--

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) Investment of Trust Fund.--It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.
(d) Payment of Interest to Tribe.--

(1) Withdrawal of interest.--Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) Payments to Yankton Sioux tribe.—

(A) In general.--The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) Limitation.--Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 206.

(C) Use of payments by Yankton Sioux tribe.--The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) Transfers and Withdrawals.--Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

**Sec. 205. [Santee Sioux Tribe Development Trust Fund.]**

(a) Establishment.--There is established in the Treasury of the United States a fund to be known as the “Santee Sioux Tribe Development Trust Fund" (referred to in this section as the “Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) Funding.--On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)--

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) Investment of Trust Fund.--It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) Payment of Interest to Tribe.--

(1) Withdrawal of interest.--Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) Payments to Santee Sioux tribe.--

(A) In general.--The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) Limitation.--Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 206.

(C) Use of payments by santee sioux tribe.--The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) Transfers and Withdrawals.--Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

**Sec. 206. [Tribal Plans.]--**

(a) In General.--Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 204(d) or 205(d) (referred to in this subsection as a “tribal plan").

(b) Contents of Tribal Plan.--Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 204(d) or 205(d) to promote--

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) Tribal Plan Review and Revision.--

(1) In general.--Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) Updating of tribal plan.--Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) Consultation.--In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) Annual reports.--Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) Prohibition on Per Capita Payments.--No portion of any payment made under this title may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

**Sec. 207. [Eligibility of Tribe for Certain Programs and Services.]--**

(a) In General.--No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law--

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) Exemptions From Taxation.--No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) Power Rates.--No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

**Sec. 208. [Statutory Construction.]--** Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

**Sec. 209. [Authorization of Appropriations.]--** There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 204 and the Santee Sioux Tribe Development Trust Fund under section 205.

**Sec. 210. [Extinguishment of Claims.]--** Upon the deposit of funds under sections 204(b) and 205(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 202(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

**TITLE III--OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM**

**Sec. 301. [Oklahoma Native American Cultural Center and Museum.]--**

(a) Findings.--Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) Grant.--

(1) In general.--The Secretary shall offer to award financial assistance equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) Agreement.--To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall--

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an

amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) Limitation.--The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) In-kind contribution.--When calculating the cost share of the Authority under this title, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) Definitions.--For the purposes of this title:

(1) Authority.--The term “Authority" means the Native American Cultural and Educational Authority of Oklahoma, an agency of the State of Oklahoma.

(2) Center.--The term “Center" means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) Secretary.--The term “Secretary" means the Secretary of the Interior.

(d) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

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**TITLE VI--CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT**

**Sec. 601. [Short Title.]--** This title may be cited as the “Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act".

**Sec. 602. [Findings.]--** The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including
but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington,
D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington,

D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.
(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the "Three Forks" area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.
(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.
(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.
(9) Third parties with property near the Arkansas River began to occupy the Indian Nations' Drybed Lands--lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.
(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.
(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.
(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218-89L and 630-89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.
(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.
(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.
(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this title and the satisfaction of its terms and in exchange for the moneys appropriated hereunder--

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218-89L and 630-89L; and
(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.
(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case Nos. 218-89L and 630-89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.
(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.
**Sec. 603. [Purposes.]**-- The purposes of this title are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this title in certain townships in eastern Oklahoma.
**Sec. 604. [Definitions.]--** For the purposes of this title, the following definitions apply:
(1) Disclaimed drybed lands.--The term “Disclaimed Drybed Lands" means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State of Oklahoma.
(2) Drybed lands.--The term “Drybed Lands" means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term “Drybed Lands" is intended to have the same meaning as the term “Upland Claim Area" as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term “Drybed Lands" includes any lands so identified in the “Holway study."
(3) Indian nation; Indian Nations.--The term “Indian Nation" means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term “Indian Nations" means all 3 tribes collectively.
(4) Riverbed.--The term “Riverbed" means the Drybed Lands and the Wetbed Lands and includes all minerals therein.
(5) Secretary.--The term “Secretary" means the Secretary of the Interior.
(6) Wetbed lands.--The term “Wetbed Lands" means those Riverbed lands which lie below the mean high-water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Drybed Lands. The term “Wetbed Lands" is intended to have the same meaning as the term “Present Channel Claim Areas" as utilized by the Bureau of

Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

**Sec. 605. [Settlement and Claims; Appropriations; Allocation of Funds.]**

(a) Extinguishment of Claims.--Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this title, the Indian Nations shall, on the date of enactment of this title, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218-89L and 630-89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations' interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this title, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this title have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 606. Upon entry of the consent decree, all the Indian Nations' claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for
events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) Release of Tribal Claims to Certain Drybed Lands.--

(1) In general.--Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 606--

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed Lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this title, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final

determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) Special provisions.--Notwithstanding any provision of this title--

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this title shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of enactment of this title which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b)(1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) Setoff.--In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 606, and any interest accrued thereon up to the date of setoff.

(4) Quiet title actions.--Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in section 605(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this title, including any lands which are Wetbed Lands on the date of enactment of this title, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) Land to be conveyed in fee.--To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this title, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) Authorization for Settlement Appropriations.--There is authorized to be appropriated an aggregate sum of $40,000,000 as follows:

(1) $10,000,000 for fiscal year 2004.

(2) $10,000,000 for fiscal year 2005.
(3) $10,000,000 for fiscal year 2006.
(4) $10,000,000 for fiscal year 2007.

(d) Allocation and Deposit of Funds.--After payment pursuant to section 607, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

(1) 50 percent to be deposited into the trust fund account established under section 606 for the Cherokee Nation.

(2) 37.5 percent to be deposited into the trust fund account established under section 606 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 606 for the Chickasaw Nation.

**Sec. 606. [Tribal Trust Funds.]**

(a) Establishment, Purpose, and Management of Trust Funds.--

(1) Establishment.--There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 605(c), and allocated pursuant to section 605(d).

(2) Availability of amounts in trust fund accounts.--Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this title. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

(b) Management of Funds.—

(1) Land acquisition.--

(A) Trust land status pursuant to regulations.--The funds appropriated and allocated to the Indian Nations pursuant to sections 205 (c) and (d), and deposited into trust fund accounts pursuant to section 606(a), together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 5 of the Act of June 18, 1934 (25 U.S.C. 465) and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) Required trust land status.--Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if--

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) Other expenditure of funds.--The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

(2) Investment of trust funds; no per capita payment.--

(A) No per capita payments.--No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) Investment by secretary.--Except as provided in this section and section 607, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) Use of principal funds.--The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) Disbursement of funds.--The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) Additional restriction on use of funds.--None of the funds made available under this title may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

**Sec. 607. [Attorney Fees.]**

(a) Payment.--At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 605(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) Limitations.--Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 605(c).

**Sec. 608. [Release of other Tribal Claims and Filing of Claims.]**

(a) Extinguishment of Other Tribal Claims.--

(1) In general.--As of the date of enactment of this title--

(A) all right, title, and interest of any Indian nation or tribe other than any Indian Nation defined in section 604 (referred to in this section and section 609 as a “claimant tribe") in or to the Disclaimed Drybed Lands, and any such right, title, or interest held by the United States on behalf of such a claimant tribe, shall be considered to be extinguished in accordance with section 177 of title 25, United States Code (section 2116 of the Revised Statutes);

(B) if any party other than a claimant tribe holds transferred interests in or to the Disclaimed Drybed Lands in violation of section 177 of title 25, United States Code (section 2116 of the Revised Statutes), Congress approves and ratifies those transfers of interests to the extent that

the transfers are in accordance with other applicable law; and

(C) the documents described in section 605(b)(1)(D) shall serve to identify the geographic scope of the interests extinguished by subparagraph (A).

(2) Quiet title actions.--

(A) In general.--Notwithstanding any other provision of law, after the date of enactment of this title, neither the United States (or any department or agency of the United States) nor any Indian Nation shall be included as a party to any civil action brought by any private person or private entity to quiet title to, or determine ownership of an interest in or to, the Disclaimed Drybed Lands.

(B) Future actions.--As of the date of enactment of this title, the United States shall have no obligation to bring any civil action to quiet title to, or to recover any land or funds relating to, the Drybed Lands (including any lands that are Wetbed Lands as of the date of enactment of this title but that are located at any time after that date above the mean high water mark of the Arkansas River).

(C) No breach of trust.--The failure or declination by the United States to initiate any civil action to quiet title to or manage any Drybed Lands under this paragraph shall not—

(i) constitute a breach of trust by the United States; or

(ii) be compensable to a claimant tribe in any manner.

(b) Claims of Other Indian Tribes.--

(1) Limited period for filing claims.--

(A) In general.--Not later than 180 days after the date of enactment of this title, any claimant tribe that claims that any title, interest, or entitlement held by the claimant tribe has been extinguished by operation of section 605(a) or section 608(a) may file a claim against the United States relating to the extinguishment in the United States Court of Federal Claims.

(B) Failure to file.--After the date described in subparagraph (A), a claimant tribe described in that subparagraph shall be barred from filing any claim described in that subparagraph.

(2) Special holding account.--

(A) Establishment.--There is established in the Treasury, in addition to the accounts established by section 606(a), an interest-bearing special holding account for the benefit of the Indian Nations.

(B) Deposits.--Notwithstanding any other provision of this title or any other law, of any funds that would otherwise be deposited in a tribal trust account established by section 606(a), 10 percent shall--

(i) be deposited in the special holding account established by subparagraph (A); and

(ii) be held in that account for distribution under paragraph (3).

(3) Distribution of funds.--

(A) In general.--Funds deposited in the special holding account established by paragraph (2)(A) shall be distributed in accordance with subparagraphs (B) through (D).

(B) Claim filed.--If a claim under paragraph (1)(A) is filed by the deadline specified in that paragraph, on final adjudication of that claim--

(i) if the final judgment awards to a claimant an amount that does not exceed the amount of funds in the special holding account under paragraph (2) attributable to

the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) that amount shall be distributed from the special holding account to the claimant tribe that filed the claim; and

(II) any remaining amount in the special holding account attributable to the claim shall be transferred to the appropriate tribal trust account for the Indian Nation established by section 606(a); and

(ii) if the final judgment awards to a claimant an amount that exceeds the amount of funds in the special holding account attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived--

(I) the balance of funds in the special holding account attributable to the Indian Nation shall be distributed to the claimant tribe that filed the claim; and

(II) payment of the remainder of the judgment amount awarded to the claimant tribe shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(C) No claims filed.--If no claims under paragraph (1)(A) are filed by the deadline specified in that paragraph--

(i) any funds held in the special holding account under paragraph (2) and attributed to that Indian Nation shall be deposited in the appropriate tribal trust account established by section 6(a); and

(ii) after the date that is 180 days after the date of enactment of this title, paragraph (2)(B) shall not apply to appropriations attributed to that Indian Nation.

(c) Declaration With Respect to Scope of Rights, Title, and Interests.--Congress declares that--

(1) subsection (b) is intended only to establish a process by which alleged claims may be resolved; and

(2) nothing in this section acknowledges, enhances, or establishes any prior right, title, or interest of any claimant tribe in or to the Arkansas Riverbed.

**Sec. 609. [Effect on Claims.]--** This title shall not be construed to resolve any right, title, or interest of any Indian nation or of any claimant tribe, except their past, present, or future claims relating to right, title, or interest in or to the Riverbed and the obligations and liabilities of the United States thereto.

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**TITLE VIII--JICARILLA APACHE RESERVATION RURAL WATER SYSTEM**

**Sec. 801. [Short Title.]**-- This title may be cited as the “Jicarilla Apache Reservation Rural Water System Act".

**Sec. 802. [Purpose.]--** The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106-243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which--

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

**Sec. 803. [Definitions.]--** As used in this title:

(1) BIA.--The term “BIA" means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) Irrigation.--The term “irrigation" means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) Reclamation.--The term “Reclamation" means the Bureau of Reclamation, an agency within the Department of the Interior.

(4) Report.--The term “Report" means the report entitled “Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico", dated September 2001, which was completed pursuant to Public Law 106-243.

(5) Reservation.--The term “Reservation" means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) Rural water supply project.--The term “Rural Water Supply Project" means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) State.--The term “State" means the State of New Mexico.

(8) Secretary.--The term “Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) Tribe.--The term “Tribe" means the Jicarilla Apache Nation.

**Sec. 804. [Jicarilla Apache Reservation Rural Water System.]**

(a) Construction.--The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) Scope of Project.--The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of

existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) Cost Sharing.--

(1) Tribal share.--Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) Federal share.--Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project shall be all remaining costs of the project identified in the Report.

(3) Operation and maintenance.--The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) Operation, Maintenance, and Replacement After Completion.--Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

**Sec. 805. [General Authority.]**-- The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450 et seq.).

**Sec. 806. [Project Requirements.]**

(a) Plans.--

(1) Project plan.--Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

(2) OM&R plan.--The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) Construction Manager.--The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) Memorandum of Agreement.--The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.
(d) Oversight.--The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.
(e) Technical Assistance.--The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.
(f) Service Area.--The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.
(g) Other Law.--The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).
(h) Report.--During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.
(i) Title.--Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.
**Sec. 807. [Authorization of Appropriations.]**
(a) In General.--There is authorized to be appropriated to carry out this title $45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.
(b) Conditions.--Funds may not be appropriated for the construction of any project authorized under this title until after--

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and
(2) the Secretary has determined that the plan required by section 806(a)(2) is completed.

(c) NEPA.--The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.
**Sec. 808. [Prohibition on Use of Funds for Irrigation Purposes.]**-- None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.
**Sec. 809. [Water Rights.]**-- The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under “historic and existing uses" to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to

endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

**TITLE IX--ROCKY BOY'S RURAL WATER SYSTEM**

**Sec. 901. [Short Title.]--** This title may be cited as the "Rocky Boy's/North Central Montana Regional Water System Act of 2002".

**Sec. 902. [Findings and Purposes.]**

(a) Findings.--Congress finds that--

(1) the water systems serving residents of the Rocky Boy's Reservation in the State of Montana--

(A) do not meet minimum health and safety standards;

(B) pose a threat to public health and safety; and

(C) are inadequate to supply the water needs of the Chippewa Cree Tribe;

(2) the United States has a responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Reservation;

(3) the entities administering the rural and municipal water systems in North Central Montana are having difficulty complying with regulations promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(4) the study, defined in section 903(k), identifies Lake Elwell, near Chester, Montana, as an available, reliable, and safe rural and municipal water supply for serving the needs of the Reservation and North Central Montana.

(b) Purposes.--The purposes of this title are--

(1) to ensure a safe and adequate rural, municipal, and industrial water supply for the residents of the Rocky Boy's Reservation in the State of Montana;

(2) to assist the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, but outside the Reservation, in developing safe and adequate rural, municipal, and industrial water supplies;

(3) to authorize the Secretary of the Interior--

(A) acting through the Commissioner of Reclamation to plan, design, and construct the core and noncore systems of the Rocky Boy's/North Central Montana Regional Water System in the State of Montana; and

(B) acting through the Bureau of Indian Affairs to operate, maintain, and replace the core system and the on-Reservation water distribution systems, including service connections to communities and individuals; and

(4) to authorize the Secretary, at the request of the Chippewa Cree Tribe, to enter into self-governance agreements with the Tribe under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), under which the Tribe--

(A) through the Bureau of Reclamation, will plan, design, and construct the core system of the Rocky Boy's/North Central Montana Regional Water System, and

(B) through the Bureau of Indian Affairs, will operate, maintain, and replace (including service connections to communities and individuals) the core system and the on-Reservation water distribution systems.

**Sec. 903. [Definitions**.]-- In this title:

(1) Authority.--The term "Authority" means the North Central Montana Regional Water Authority established under State law, Mont. Code Ann. Sec. 75-6-301, et. seq. (2001), to allow public agencies to join together to secure and provide water for resale.

(2) Core system.--The term “core system" means a component of the water system as described in section 904(d) and the final engineering report.
(3) Final engineering report.--The term “final engineering report" means the final engineering report prepared for the Rocky Boy's/North Central Montana Regional Water System, as approved by the Secretary of the Interior.
(4) Fund.--The term “fund" means the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.
(5) On-reservation water distribution systems.--The term “on-reservation water distribution systems" means that portion of the Rocky Boy's/North Central Montana Regional Water system served by the core system and within the boundaries of the Rocky Boy's Reservation. The on-reservation water distribution systems are described in section 904(f) and the final engineering report.
(6) Noncore system.--The term “noncore system" means the rural water system for Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, described in section 905(c) and the final engineering report.
(7) Reservation.--

(A) In general.--The term “Reservation" means the Rocky Boy's Reservation in the State of Montana.
(B) Inclusions.--The term “Reservation" includes all land and interests in land that are held in trust by the United States for the Tribe at the time of the enactment of this title.

(8) Rocky Boy's/North Central Montana Regional Water System.--The term “Rocky Boy's/North Central Montana Regional Water System" means--

(A) the core system;
(B) the on-reservation water distribution systems; and
(C) the non-core system.

(9) Secretary.--The term “Secretary" means the Secretary of the Interior.
(10) State.--The term “State" means the State of Montana.
(11) Study.--The term “study" means the study entitled “North Central Montana Regional Water System Planning/Environmental Report" dated May 2000.
(12) Tribe.--The term “Tribe" means--

(A) the Chippewa Cree Tribe of the Rocky Boy's Reservation; and
(B) all officers, agents, and departments of the Tribe.

**Sec. 904. [Rocky Boy’s Rural Water System.]**
(a) Final Engineering Report.--The following reports will serve as the basis for the final engineering report for the Rocky Boy's/North Central Montana Regional Water System—

(1) pursuant to Public Law 104-204, a study, described in section 903(k), that was conducted to study the water and related resources in North Central Montana and to evaluate alternatives for providing a municipal, rural and industrial supply of water to the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, residing both on and off the Reservation; and
(2) pursuant to section 202 of Public Law 106-163, the Tribe has conducted, through a self-governance agreements with the Secretary of the Interior, acting through the Bureau of Reclamation, a feasibility study to evaluate alternatives for providing a municipal, rural and industrial supply of water to the Reservation. The Secretary of the Interior may require, through the agreements described in subsection (g) and section 905(d), that the final engineering report include appropriate additional study and analyses.

(b) Core System.--

(1) In general.--The Secretary is authorized to plan, design, construct, operate, maintain, and replace the core system.

(2) Federal share.--

(A) The Federal share of the cost of planning, design, and construction of the core system shall be--

(i) 100 percent of the Tribal share of costs as identified in section 914;

(ii) 80 percent of the authority's share of the total cost for the core system as identified in section 914; and

(iii) funded through annual appropriations to the Bureau of Reclamation.

(3) Agreements.--Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(c) Operation, Maintenance, and Replacement (OM&R) Core System.--The cost of operation, maintenance, and replacement of the core system shall be allocated as follows--

(1) 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913;

(2) 100 percent of the Authority's share of the OM&R costs, as negotiated in the Cooperative Agreements, shall be funded by the Authority and fully reimbursable to the Secretary. Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g) and section 905(d).

(d) Core System Components.--As described in the final engineering report, the core system shall consist of--

(1) intake, pumping, water storage, and treatment facilities;

(2) transmission pipelines, pumping stations, and storage facilities;

(3) appurtenant buildings, maintenance equipment, and access roads;

(4) all property and property rights necessary for the facilities described in this subsection;

(5) all interconnection facilities at the core pipeline to the noncore system; and

(6) electrical power transmission and distribution facilities necessary for services to core system facilities.

(e) Authority to Acquire Property.--Where, in carrying out the provisions of this title for construction of the core system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

(f) On-Reservation Water Distribution Systems.--

(1) In general.--The Secretary is authorized to operate, maintain, and replace the water distribution systems of the Reservation.

(2) Operation, maintenance, and replacement.--The cost of operation, maintenance, and replacement of the on-reservation water distribution systems shall be allocated as follows: Up to 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913.

(3) Agreements.--Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(4) Components.--As described in the final engineering report, the on-reservation water distribution systems shall consist of--

(A) water systems in existence on the date of enactment of this title that may be purchased, improved, and repaired in accordance with the Agreements entered into under subsection (g);

(B) water systems owned by individual members of the Tribe and other residents of the Reservation;

(C) any water distribution system that is upgraded to current standards, disconnected from low-quality wells; and

(D) connections.

(5) Construction of new facilities, or expansion or rehabilitation of current facilities.--The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163), plus accrued interest, in the purchase, construction, expansion, or rehabilitation of the on-reservation water distribution systems.

(g) Agreements.--Federal funds made available to carry out subsections (b), (c), and (f) may be obligated and expended only in accordance with the agreements entered into under this subsection.

(1) In general.--At the request of the Tribe, the Secretary shall enter into self-governance agreements under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) with the Tribe, in accordance with this title--

(A) through the Bureau of Reclamation, to plan, design, and construct the core system; and

(B) through the Bureau of Indian Affairs, to operate, maintain, and replace the core system and the on-Reservation water distribution systems.

(2) Project oversight administration.--The amount of Federal funds that may be used to provide technical assistance and conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1)(A) shall be negotiated with the Tribe and shall be an allowable project cost.

(h) Service Area.--The service area of the Rocky Boy's Rural Water System shall be the core system and the Reservation.

(i) Title to Core System.--Title to the core system--

(1) shall be held in trust by the United States for the Tribe; and

(2) shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this title.

(j) Technical Assistance.--The Secretary is authorized to provide such technical assistance as is necessary to enable the Tribe to--

(1) plan, design, and construct the core system, including management training. Such technical assistance shall be deemed as a core system project construction cost; and

(2) operate, maintain, and replace the core system and the on-reservation water distribution systems. Such technical assistance shall be deemed as a core system and an on-reservation water distribution systems operation, maintenance, and replacement cost, as appropriate.

**Sec. 905. [Noncore System.]**-- (a) In General.--The Secretary is authorized to enter into Cooperative Agreements with the Authority to provide Federal funds for the planning, design, and construction of the noncore system in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, outside the Reservation.

(b) Federal Share.--

(1) Planning, design, and construction.--The Federal share of the cost of planning, design, and construction of the noncore system shall be 80 percent and will be funded through annual appropriations to the Bureau of Reclamation.

(2) Operation, maintenance, and replacement of non-core system components.--The cost of operation, maintenance, and replacement associated with water deliveries to the noncore system shall not be a Federal responsibility and shall be borne by the Authority.

(3) Cooperative agreements.--Federal funds made available to carry out this section may be obligated and expended only in accordance with the Cooperative Agreements entered into under subsection (d).

(c) Components.--As described in the final engineering report, the components of the noncore system on which Federal funds may be obligated and expended under this section shall include--

(1) storage, pumping, and pipeline facilities;

(2) appurtenant buildings, maintenance equipment, and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to noncore system facilities; and

(5) other facilities and services customary to the development of a rural water distribution system in the State.

(d) Cooperative Agreements.--

(1) In general.--The Secretary is authorized to enter into the Cooperative Agreements with the Authority to provide Federal funds and necessary assistance for the planning, design, and construction of the noncore system. The Secretary is further authorized to enter into a tri-partite Cooperative Agreement with the Authority and the Tribe addressing the allocation of operation, maintenance and replacement costs for the core system and action that can be undertaken to keep those costs within reasonable levels.

(2) Mandatory provisions.--The Cooperative Agreements under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Authority--

(A) the responsibilities of each party to the agreements for--

(i) the final engineering report;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures;

(v) environmental and cultural resource compliance activities; and

(vi) administration of contracts relating to performance of the activities described in clauses (i) through (v);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreements.

(3) Project oversight administration.--The amount of Federal funds that may be used to provide technical assistance and to conduct the necessary construction oversight,

inspection, and administration of activities in paragraph (1) shall be negotiated with the Authority, and shall be an allowable project cost.

(e) Service Area.--

(1) In general.--Except as provided in paragraph (2), the service area of the noncore system shall be generally defined as the area--

(A) north of the Missouri River and Dutton, Montana;

(B) south of the border between the United States and Canada;

(C) west of Havre, Montana;

(D) east of Cut Bank Creek in Glacier County, Montana; and

(E) as further defined in the final engineering report, referenced in section 904(a).

(2) Exclusions from service area.--The service area of the noncore system shall not include the area inside the Reservation.

(f) Limitation on Use of Federal Funds.--The operation, maintenance, and replacement expenses for the noncore system--

(1) shall not be a Federal responsibility;

(2) shall be borne by the Authority; and

(3) the Secretary may not obligate or expend any Federal funds for the OM&R of the noncore system.

(g) Title to Noncore System.--Title to the noncore system shall be held by the Authority.

(h) Authority To Acquire Property.--Where, in carrying out the provisions of this title for construction of the noncore system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

**Sec. 906. [Limitation on Availability of Construction Funds.]--** The Secretary shall not obligate funds for construction of the core system or the noncore system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the core system and the noncore system;

(2) the date that is 90 days after the date of submission to Congress of a final engineering report approved and transmitted by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 911(a) includes prudent and reasonable water conservation measures for the operation of the Rocky Boy's/North Central Montana Regional Water System that have been shown to be economically and financially feasible.

**Sec. 907. [Connection Charges.]--** The cost of connection of nontribal community water distribution systems and individual service systems to transmission lines of the core system and noncore system shall be the responsibility of the entities receiving water from the transmission lines.

**Sec. 908. [Authorization of Contracts.]--** The Secretary is authorized to enter into contracts with the Authority for water from Lake Elwell providing for the repayment of its respective share of the construction, operation, maintenance and replacement costs of Tiber dam and reservoir, as determined by the Secretary, in accordance with Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto).

**Sec. 909. [Timber Reservoir Allocation to the Tribe.]--**
(a) No Diminishment of Storage.--In providing for the delivery of water to the noncore system, the Secretary shall not diminish the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana.
(b) Draw of Supply; Purchase of Additional Water.--In providing for delivery of water to Rocky Boy's Indian Reservation for the purposes of this title, the Tribe shall draw its supply from the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Act of 1999 (Public Law 106-163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana. Nothing in this title shall prevent the Tribe from entering into contracts with the Secretary for the purchase of additional water from Lake Elwell.
**Sec. 910. [Use of Pick-Sloan Power.]**-- The Secretary of the Interior, in cooperation with the Secretary of Energy, is directed to make Pick-Sloan Missouri Basin Program preference power available, for the purposes of this title. Power shall be made available when pumps are energized and/or upon completion of the Project.
**Sec. 911. [Water Conservation Plan.]**
(a) In General.--The Tribe and the Authority shall develop and incorporate into the final engineering report a water conservation plan that contains--

(1) a description of water conservation objectives;
(2) a description of appropriate water conservation measures; and
(3) a time schedule for implementing the water conservation measures to meet the water conservation objectives.

(b) Purpose.--The water conservation plan under subsection (a) shall be designed to ensure that users of water from the core system, on-reservation water distribution systems, and the noncoresystem will use the best practicable technology and management techniques to conserve water.
(c) Coordination of Programs.--Section 210 (a) and (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj (a) and (c)) shall apply to activities under section 911 of this title.
**Sec. 912. [Water Rights.]--** This title does not--
(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;
(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;
(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;
(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource; or
(5) affect any right of the Tribe to water, located within or outside the external boundaries of the Reservation, based on a treaty, compact, Executive Order, Agreements, Act of Congress, aboriginal title, the decision in Winters v. United States, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine"), or other law.

**Sec. 913. [Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.]**

(a) Establishment of Trust Fund.--There is established in the Treasury of the United States a trust fund to be known as the "Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund", to be managed and invested by the Secretary.

(b) Contents of Fund.--The Fund shall consist of--

(1) the amount of $15,000,000 as the Federal share, as authorized to be appropriated in section 914(c);

(2) the Tribe shall deposit into the Fund $5,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163); and

(3) such interest as may accrue, until expended according to subsections (d) and (f).

(c) Management of the Fund.--The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this sec.as the "Trust Fund Reform Act"), and this title.

(d) Use of Fund.--The Tribe shall use accrued interest, only, from the Fund for operation, maintenance, and replacement of the core system and the on-reservation distribution, only, pursuant to an operation, maintenance and replacement plan approved by the Secretary.

(e) Investment of Fund.--The Secretary shall, after consulting with the Tribe on the investment of the Fund, invest amounts in the Fund in accordance with--

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of February 12, 1929 (25 U.S.C. 161a);

(3) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(4) subsection (b).

(f) Expenditures and Withdrawal.--

(1) Tribal management plan.--

(A) Withdrawal by tribe.--The Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) Requirements.--In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Tribe spend any funds only in accordance with the purposes described in subsections 913 (d) and (f).

(2) Enforcement.--The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this title.

(3) Liability.--If the Tribe exercises the right to withdraw monies from the Fund pursuant to the Trust Fund Reform Act, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) Operation, maintenance, and replacement plan.-- Expenditures of accrued interest, only, from the Fund may be made for operation, maintenance, and replacement plan approved by the Secretary.

(A) In general.--The Tribe shall submit to the Secretary for approval an operation, maintenance, and replacement plan for any funds made available to it under this section.

(B) Description.--The plan shall describe the manner in which, and the purposes for which, funds made available to the Tribe will be used.

(C) Approval.--On receipt of an expenditure plan under subparagraph (A), the Secretary shall, in a timely manner, approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) Availability.--Funds made available from the fund under this section shall be available without fiscal year limitation.

(6) Annual report.--The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) No Per Capita Distributions.--No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

**Sec. 914. [Authorization of Appropriations.]--**

(a) Core System.-- There is authorized to be appropriated $129,280,000 to the Bureau of Reclamation for the planning, design, and construction of the core system. The Tribal portion of the costs shall be 76 percent. The Authority's portion of the costs shall be 24 percent.

(b) On-Reservation Water Distribution Systems.-- The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163), plus accrued interest, in the purchase, construction, expansion or rehabilitation of the on-reservation water distribution systems.

(c) Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.--For the Federal contribution to the Fund, established in section 913, there is authorized to be appropriated to the Bureau of Indian Affairs the sum of $7,500,000 each year for fiscal year 2005 and 2006.

(d) Noncore System.-- There is authorized to be appropriated $73,600,000 to the Bureau of Reclamation for the planning, design, and construction of the noncore system.

(e) Cost Indexing.-- The sums authorized to be appropriated under this section may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after the date of enactment of this title, as indicated by engineering cost indices applicable for the type of construction involved.

**TITLE X--MISCELLANEOUS**

**Sec. 1001. [Santee Sioux Tribe, Nebraska, Water System Study.]--** Study.--Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the “Secretary"), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the “Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) Cooperative Agreement.--At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) Report.--Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

(d) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary $500,000 to carry out this section.

**Sec. 1002. [Yurok Tribe and Hopland Band Included in Long-Term Leasing.]**

(a) In General.--The first section of the Act entitled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting ``lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after “Pueblo of Santa Clara,".

(b) Effective Date.--The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this title.

Approved December 13, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2017 (H.R. 3407):
HOUSE REPORTS: No. 107-630 accompanying H.R. 3407 (Comm. on Resources).
SENATE REPORTS: No. 107-249 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 148 (2002):
Sept. 17, considered and passed Senate, Pg. S8694.
Nov. 14, considered and passed House, amended.
Nov. 20, Senate concurred in House amendment, Pg. S11773.

December 17, 2002

# RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT AMENDMENT

An Act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington. (An act of December 17, 2002, Public Law 107-344, 116 Stat. 2893)

**[Section 1. Authorization of Lakehaven, Washington, Wastewater Reclamation and Reuse Project.]—**The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1635. LAKEHAVEN, WASHINGTON, WATER RECLAMATION AND REUSE PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the Lakehaven Utility District, Washington, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the Lakehaven Utility District.

"(b) Cost Share.-- The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project. "(c) Limitation.-- The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.".

**Sec. 2. [Clerical Amendment.]--** The table of sections in section 2 of such Act is amended by inserting after the item relating to section 1634 the following:

"Sec. 1635. Lakehaven, Washington, Water Reclamation and Reuse Project.".

Approved December 17, 2002.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 2115:
House Report: No. 107-302, Comm. on Resources, Nov. 27, 2001.
Senate Report: No. 107-288, Comm. on Energy and Natural Resources, Sept. 17, 2002.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House bill, Nov. 15, 2001.
Senate bill, Aug. 6, 2002.
CONGRESSIONAL RECORD, Vol. 147 (2001):
Dec. 5, considered and passed House, Pg. H8855.
CONGRESSIONAL RECORD, Vol. 148 (2002):
Nov. 19, considered and passed Senate, Pg. S11653.
BUREAU OF RECLAMATION TESTIMONY
Sept. 16, 2010; (H.R. 5039) House Comm. on Natural Resources.

December 17, 2002

# KLAMATH BASIN EMERGENCY OPERATION AND MAINTENANCE REFUND ACT OF 2002

An Act to authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's transferred works for 2001, to authorize refunds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes. (An act of December 17, 2002, Public Law 107-349, 116 Stat. 2973)

**[Section 1. Short Title.]--** This Act may be cited as the "Klamath Basin Emergency Operation and Maintenance Refund Act of 2002".

**Sec. 2. [Qualified Klamath Project Entity Defined.]--** In this Act, the term "qualified Klamath Project entity" means an entity that--

(1) has executed a water supply contract with the United States for water from the Upper Klamath Lake and the Klamath River of the Klamath Project pursuant to the reclamation laws, including the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto;

(2) distributes water received under the contract;

(3) received a severely limited irrigation supply from the Upper Klamath Lake and the Klamath River based on the Bureau of Reclamation 2001 annual operations plan dated April 6, 2001; and

(4) was not reimbursed for its operation and maintenance expenses for 2001 pursuant to State law.

**Sec. 3. [Refund and Waiver of Assessments and Charges for Operation and Maintenance of Klamath Reclamation Project.]--**

(a) In General.-- The Secretary of the Interior is authorized to pay to each qualified Klamath Project entity an amount equal to the amount assessed or charged to members of the qualified Klamath Project entity, or to other persons receiving water or drainage service from such an entity, for operation and maintenance of Klamath Project transferred and reserved works for 2001.

(b) Conditions.-- Payment under this section may be made to a qualified Klamath Project entity only after the entity has--

(1) provided to the Secretary documentation satisfactory to the Bureau of Reclamation, demonstrating the total amount assessed or charged to members of the entity or to persons receiving service from the entity; and

(2) executed a binding agreement under which the funds paid to the entity under this section shall be distributed to each member of the entity or persons receiving service from the entity in an amount equal to the amount collected by the entity from the member or person for operation and maintenance for 2001.

(c) Waiver of Remaining and Additional Charges.-- The Secretary may waive any requirement that a qualified Klamath Project entity pay remaining or additional charges for operation and maintenance of Klamath Project reserved works for 2001.

(d) Payments and Waivers for Individuals.-- The Secretary--

(1) may pay, to any individual within the Klamath Project who holds a contract entered into pursuant to the Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523-525), popularly known as the "Warren Act", and who is not within a district

that receives a payment pursuant to subsection (a) and a waiver under subsection (c), an amount equal to the amount collected from such individual for operation and maintenance of Klamath Project reserved works for 2001; and

(2) may forego collection from such individual of charges for operation and maintenance of such works for the remainder of 2001.

**Sec. 4. [Authorization of Appropriations.]--** Amounts not paid by a qualified Klamath Project entity to the Bureau of Reclamation for the operation and maintenance of the reserved works for 2001 shall be funded from the appropriations authorized by this Act. Costs incurred by the Bureau of Reclamation in carrying out this Act shall not be reimbursable.

**Sec. 5. [No Supplemental or Additional Benefit.]--** Activities under this Act or funded pursuant to this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (82 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

Approved December 17, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2828:
House Report: No. 107-284, Comm. on Resources, Nov. 13, 2001.
Senate Report: No. 107-289, Comm. on Energy and Natural Resources, Sept. 17, 2002.
CCONGRESSIONAL BUDGET OFFICE: Cost Estimate; House Bill, Nov. 13, 2001.
Senate Bill, Aug. 6, 2002.
CONGRESSIONAL RECORD: Vol. 147 (2001):
Nov. 13, considered and passed House, Pg. H8060-1.
CONGRESSIONAL RECORD: Vol. 148 (2002):
Nov. 19, considered and passed Senate, Pg. S11653.

December 17, 2002

# LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2002

An Act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes. (An act of December 17, 2002, Public Law 107-351, 116 Stat. 2979)

**[Section 1. Short Title.]--** This Act may be cited as the "Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2002".

**Sec. 2. [Authorization of Additional Projects Under the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000.]--** Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3067) is amended by adding at the end the following:

"(5) In the United Irrigation District of Hidalgo County, Texas, a pipeline and pumping system as identified in the Sigler, Winston, Greenwood, Associates, Incorporated, study dated January 2001.

"(6) In the Cameron County, Texas, Irrigation District No. 2, proposed improvements to Canal C, as identified in the February 8, 2001, engineering report by Martin, Brown, and Perez.

"(7) In the Cameron County, Texas, Irrigation District No. 2, a proposed Canal C and Canal 13 Inner Connect, as identified in the February 12, 2001, engineering report by Martin, Brown, and Perez.

"(8) In Delta Lake Irrigation District of Hidalgo and Willacy Counties, Texas, proposed water conservation projects, as identified by the AW Blair Engineering report of February 13, 2001.

"(9) In the Hidalgo and Cameron County, Texas, Irrigation District No. 9, a proposed project to salvage spill water using automatic control of canal gates as identified in the AW Blair Engineering report dated February 14, 2001.

"(10) In the Brownsville Irrigation District of Cameron County, Texas, a proposed main canal replacement as outlined in the Holdar-Garcia & Associates engineering report dated February 14, 2001.

"(11) In the Hidalgo County, Texas, Irrigation District No. 16, a proposed off-district pump station project as identified by the Melden & Hunt, Incorporated, engineering report dated February 14, 2001.

"(12) In the Hidalgo County, Texas, Irrigation District No. 1, a proposed canal replacement of the North Branch East Main, as outlined in the Melden & Hunt, Incorporated, engineering analysis dated February, 2001.

"(13) In the Donna (Texas) Irrigation District, a proposed improvement project as identified by the Melden & Hunt, Incorporated, engineering analysis dated February 13, 2001.

"(14) In the Hudspeth County, Texas, Conservation and Reclamation District No. 1, the Alamo Arroyo Pumping Plant water quality project as identified by the engineering report and drawings by Gebhard-Sarma and Associates dated July 1996 and the construction of a 1,000 acre-foot off-channel regulating reservoir for the capture and conservation of

irrigation water, as identified in the engineering report by AW Blair Engineering dated June 2002.

"(15) In the El Paso County, Texas, Water Improvement District No. 1, the Riverside Canal Improvement Project Phase I Reach A, a canal lining and water conservation project identified by the engineering report by AW Blair Engineering dated June 2002.

"(16) In the Maverick County, Texas, Water Improvement and Control District No. 1, the concrete lining project of 12 miles of the Maverick Main Canal, identified in the engineering report by AW Blair Engineering dated June 2002.

"(17) In the Hidalgo County, Texas, Irrigation District No. 6, rehabilitation of 10.2 miles of concrete lining in the main canal between Lift Stations Nos. 2 and 3 as identified in the engineering report by AW Blair Engineering dated June 2002.

"(18) In the Hidalgo County, Texas, Irrigation District No. 2, Wisconsin Canal Improvements as identified in the Sigler, Winston, Greenwood & Associates, Incorporated, engineering report dated February 2001.

"(19) In the Hidalgo County, Texas, Irrigation District No. 2, Lateral `A' Canal Improvements as identified in the Sigler, Winston, Greenwood & Associates, Incorporated, engineering report dated July 25, 2001.".

**Sec. 3. [Amendments to the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000.]--** The Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3065 et seq.) is further amended as follows:

(1) Section 3(a) is amended in the first sentence by striking "The Secretary" and all that follows through "in cooperation" and inserting "The Secretary, acting through the Bureau of Reclamation, shall undertake a program under cooperative agreements".

(2) Section 3(b) is amended to read as follows: "(b) Project Review.--Project proposals shall be reviewed and evaluated under the guidelines set forth in the document published by the Bureau of Reclamation entitled `Guidelines for Preparing and Reviewing Proposals for Water Conservation and Improvement Projects Under P.L. 106-576', dated June 2001.".

(3) Section 3(d) is amended by inserting before the period at the end the following: ", including operation, maintenance, repair, and replacement".

(4) Section 3(e) is amended by striking ``the criteria established pursuant to this section" and inserting "the guidelines referred to in subsection (b)".

(5) Subsection (f) of section 3 is amended by striking "to prepare" and all that follows through the end of the subsection and inserting "to have the Secretary prepare the reports required under this section. The Federal share of the cost of such preparation by the Secretary shall not exceed 50 percent of the total cost of such preparation.".

(6) Section 3(g) is amended by striking "$2,000,000" and inserting "$8,000,000".

(7) Section 4(b) is amended--

(A) in the first sentence by striking "costs of any construction" and inserting "total project cost of any project"; and

(B) in the last sentence by inserting "the actual" before "funds".

(8) Section 4(c) is amended by striking "$10,000,000" and inserting "$47,000,000 (2001 dollars)".

Approved December 17, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2990:
HOUSE REPORTS: No. 107-580, Comm. on Resources, July 16, 2002.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House Bill, July 15, 2002.
Senate Bill, Oct. 8, 2002.
CONGRESSIONAL RECORD, Vol. 148 (2002):
July 22, considered and passed House, Pg. H5006-8.
Nov. 19, considered and passed Senate, Pg. 11653.
BUREAU OF RECLAMATION TESTIMONY:
July 8, 2004, (H.R. 4588) House Comm. on Natural Resources.
April 27, 2010; (H.R. 1393) Senate Comm. on Energy and Natural Resources.

December 19, 2002

# CENTRAL UTAH PROJECT COMPLETION ACT AMENDMENTS

An Act to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment. (An act of December 19, 2002, Public Law 107-366, 116 Stat. 3030)

**[Section 1. Amendments to the Central Utah Project Completion Act.]--**

(a) Treatment of Investigation Costs.-- Section 201(b) of the Central Utah Project Completion Act (106 Stat. 4607) is amended following paragraph (2) by inserting the following: "All amounts previously expended in planning and developing the projects and features described in this subsection including amounts previously expended for investigation of power features in the Bonneville Unit shall be considered non-reimbursable and non-returnable.".

(b) Clarification of Secretarial Responsibilities.-- Section 201(e) of the Central Utah Project Completion Act (106 Stat. 4608) is amended--

(1) in the first sentence--

(A) by striking "identified in this Act" and inserting "identified in this title and the Act of April 11, 1956 (chapter 203; 70 Stat. 110 et seq.), popularly known as the Colorado River Storage Project Act,";

(B) by inserting "relating to the Bonneville Unit of the Central Utah Project including oversight for all phases of the Bonneville Unit, the administration of all prior and future contracts, operation and maintenance of previously constructed facilities" before "and may not delegate";

(C) by striking "his responsibilities under this Act" and inserting "such responsibilities"; and

(D) by striking the period after ``Reclamation" and inserting: ", except through the pilot management program hereby authorized. The pilot management program will exist for a period not to exceed 5 years and shall provide a mechanism for the Secretary and the District to create a mutually acceptable organization within the Bureau of Reclamation to assist the Secretary in his responsibilities for the long-term management of the Bonneville Unit. Such pilot management program may be extended indefinitely by mutual agreement between the Secretary and the District.";

(2) in the second sentence--

(A) by inserting "technical" before "services"; and

(B) by inserting "for engineering and construction work" before "on any project features"; and

(3) by inserting at the end thereof the following new sentence: "These provisions shall not affect the responsibilities of the Bureau of Reclamation and the Western Area Power Administration regarding all matters relating to all Colorado River Storage Project power functions, including all matters affecting the use of power revenues, power rates and ratemaking.".

(c) Municipal and Industrial Water.-- Section 202(a)(1)(B) of the Central Utah Project Completion Act (106 Stat. 4608) is amended in the last sentence by inserting “and municipal and industrial water" after the word “basin".
(d) Use of Unexpended Budget Authority.-- Section 202(c) of the Central Utah Project Completion Act (106 Stat. 4611) is amended to read as follows: “The Secretary is authorized to utilize all unexpended budget authority for units of the Central Utah Project up to $300,000,000 and the balance of such budget authority in excess of this amount is deauthorized. Such $300,000,000 may be used to provide 65 percent Federal share pursuant to section 204, to acquire water and water rights for project purposes including instream flows, to complete project facilities authorized in this title and title III, to implement water conservation measures under section 207, including use of reverse osmosis membrane technologies, water recycling, and conjunctive use, to stabilize high mountain lakes and appurtenant facilities, to develop power, and for other purposes. In addition, funds may be provided by the Commission for fish and wildlife purposes. The District shall comply with the provisions of sections 202(a)(1), 205(b), and Title VI with respect to the features to be provided for in this subsection.".
(e) Prepayment of repayment.-- Section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended--

(1) in the second sentence--
(A) by inserting “or any additional or supplemental repayment contract" after “1985,"; and
(B) by inserting “of the Central Utah Project" after “water delivery facilities"; and

(2) by striking “The District shall exercise" and all that follows through the end of that sentence.

**Sec. 2. [Use of Project Facilities for Non-Project Water.]--** The Secretary of the Interior may enter into contracts with the Provo River Water Users Association or any of its member unit contractors for water from Provo River, Utah, under the Act of February 21, 1911 (43 U.S.C. 523), for--
(1) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using facilities associated with the Provo River Project, Utah; and
(2) the exchange of water among Provo River Project contractors, for the purposes set forth (2) the exchange of water among Provo River Project contractors, for the purposes set forth in paragraph (1), using facilities associated with the Provo River Project, Utah.

Approved December 19, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 4129 (S. 2475):
House Report: No. 107-554, Comm. on Resources, July 8, 2002.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House Bill, July 1, 2002.
CONGRESSIONAL RECORD, Vol. 148 (2002):
Oct. 1, considered and passed House, Pg. G6875.
Nov. 19, considered and passed Senate, Pg. S116

December 19, 2002

## MNI WICONI RURAL WATER SUPPLY PROJECT REAUTHORIZATION

An Act to reauthorize the Mni Wiconi Rural Water Supply Project. (An act of December 19, 2002, Public Law 107-367, 116 Stat. 3033)

**[Section 1. Mni Wiconi Rural Water Supply Project, South Dakota.]--** Section 10(a) of the Mni Wiconi Project Act of 1988 (Public Law 100-516; 102 Stat. 2571), as amended by section 813 of the Mni Wiconi Act Amendments of 1994 (Public Law 103-434; 108 Stat. 4545), is amended—
(1) in the first sentence, by inserting "(based on October 1, 1992, price levels) and $58,800,000 (based on October 1, 1997, price levels)" after "$263,241,000";
(2) in the second sentence, by striking "2003" and inserting "2008"; and (3) in the last sentence, by inserting "(with respect to the $263,241,000), and October 1, 1997 (with respect to the $58,800,000)" after "1992".

Approved December 19, 2002.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 4638 (S. 1999):
House Report: No. 107-633, Comm. on Resources, Sept. 4, 2002.
Senate Report: No. 107-268 accompanying S. 1999, Comm. on Energy and Natural Resources, Sept. 11,
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House Bill, Aug. 5, 2002.
CONGRESSIONAL RECORD, Vol. 148 (2002):
Sept. 24, considered and passed House, Pg. H6501.
Nov. 19, considered and passed Senate, Pg. S11653.
BUREAU OF RECLAMATION TESTIMONY:
Sept. 19, 2012 and April 16, 2013; Mni Wiconi Project Act Amendments of 2012 (113th Congress).

December 19, 2002

# UPPER COLORADO AND SAN JUAN RIVER BASINS ENDANGERED FISH RECOVERY AMENDMENTS

An Act to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins. (Act act of December 19, 2002, Public Law 107-375, 116 Stat. 3113)

**[Section 1. Amendments to Existing Provisions.]--** Public Law 106-392 (114 Stat. 1602) is amended as follows:

(1) Section 2(1) is amended by inserting “and extended by the Extension of the Cooperative Agreement dated December 6, 2001," after “September 29, 1987,"

(2) Section 3(a)(2) is amended by striking “fiscal year 2005" and inserting “fiscal year 2008".

(3) Section 3(a)(3) is amended by striking “fiscal year 2007" and inserting “fiscal year 2008".

(4) Section 3(b) is amended--

(A) in paragraph (1) by striking “fiscal year 2005" and inserting “fiscal year 2008"; and

(B) in paragraph (2) by striking “fiscal year 2007" and inserting “fiscal year 2008" (5) Section 3(c)(1) is amended by striking ``with" and inserting “within".

Approved December 19, 2002.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 5099:
House Report: No. 107-672, Comm. on Resources, Sept. 24, 2002.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate; House Bill, Sept. 24, 2002.
Senate Bill, Oct. 8, 2002.
CONGRESSIONAL RECORD, Vol. 148 (2002):
Sept. 24, considered and passed House. Pg. H6493.
Nov. 19, considered and passed Senate, Pg. S. 11653.

June 23, 2003

## ZUNI INDIAN WATER RIGHTS SETTLEMENT ACT OF 2003

An Act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes. [An act of June 23, 2003, Public Law 108-34, 117 Stat. 782]

**[Section 1. Short Title.]--** This Act may be cited as the "Zuni Indian Tribe Water Rights Settlement Act of 2003".

**Sec. 2. [Findings and Purposes.]--**

(a) Findings.-- Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417, In re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian communities in the Little Colorado River basin, the parties have entered into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of

and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) Purposes.--The purposes of this Act are--

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this Act.

**Sec. 3. [Definitions.]--** In this Act:

(1) Eastern LCR basin.-- The term “Eastern LCR basin" means the portion of the Little Colorado River basin in Arizona upstream of the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) Fund.-- The term “Fund" means the Zuni Indian Tribe Water Rights Development Fund established by section 6(a).

(3) Intergovernmental agreement.-- The term “Intergovernmental Agreement" means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and the State of Arizona described in article 6 of the Settlement Agreement.

(4) Pumping protection agreement.-- The term “Pumping Protection Agreement" means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) Reservation; Zuni Heaven Reservation.-- The term “Reservation" or “Zuni Heaven Reservation", also referred to as “Kolhu:wala:wa", means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(6) Secretary.-- The term “Secretary" means the Secretary of the Interior.

(7) Settlement agreement.-- The term “Settlement Agreement" means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the

Round Valley Water Users' Association, the Salt River Project Agricultural Improvement and Power District, the Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.
(8) SRP.-- The term “SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.
(9) TEP.--The term “TEP" means Tucson Electric Power Company.
(10) Tribe, Xuni tribe, or Zuni Indian tribe.-- The terms “Tribe", “Zuni Tribe", or “Zuni Indian Tribe" means the body politic and federally recognized Indian nation, and its members.
(11) Zuni lands.-- The term “Zuni Lands" means all the following lands, in the State of Arizona, that, on the effective date described in section 9(a), are--

(A) within the Zuni Heaven Reservation;
(B) held in trust by the United States for the benefit of the Tribe or its members; or
(C) held in fee within the Little Colorado River basin by or for the Tribe.

**Sec. 4. [Authorization, Ratifications, and Confirmations.]--.**
(a) Settlement Agreement.--To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act. The Secretary is further authorized to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.
(b) Authorization of Appropriations.-- There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 6(a), $19,250,000, to be allocated by the Secretary as follows:

(1) $3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 9(b).
(2) $15,750,000, of which $5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this Act.

(c) Other Agreements.-- Except as provided in section 9, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.
(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.
(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

**Sec. 5. [Trust Lands.]--**
(a) New Trust Lands.-- Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 9(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4, S 1/2 NE 1/4 SE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;
(B) Section 23: N 1/2, N 1/2 SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SW 1/4 SE 1/4;
(C) Section 24: NW 1/4, SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4; and (D) Section 25: N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:
(A) Section 19: W 1/2 E 1/2 NW 1/4, W 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4, S 1/2 SW 1/4;
(B) Section 29: SW 1/4 SW 1/4 NW 1/4, NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW 1/4 SE 1/4;
(C) Section 30: W 1/2, SE 1/4; and
(D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4.

(b) Future Trust Lands.-- Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:
(A) Section 14: SE 1/4 SW 1/4, SE 1/4;
(B) Section 16: S 1/2 SW 1/4 SE 1/4;
(C) Section 19: S 1/2 SE 1/4 SE 1/4;
(D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;
(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;
(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;
(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;
(H) Section 29: N 1/2 N 1/2;
(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and
(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:
(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;
(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4; and
(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) New Reservation Lands.-- Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian

Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) Limitation on Secretarial Discretion.-- The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) Lands Remaining in Fee Status.-- The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) Final Agency Action.-- Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) No Federal Water Rights.--Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) State Water Rights.-- The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) Forfeiture and Abandonment.-- Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) Ad Valorem Taxes.-- With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) Authority of Tribe.--For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) Federal Acknowledgement of Intergovernmental Agreements.--

(1) In general.-- The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) No abrogation.-- The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent with subparagraph 6.2.A of the Settlement Agreement and this Act.

(3) Removal.--

(A) In general.-- Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) Exception.-- The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 8(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) Rule of Construction.-- Nothing in this Act shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) Disclaimer.-- Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes" approved August 28, 1984 (Public Law 98-408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101-486; 104 Stat. 1174)).

**Sec. 6. [Development Fund.]--**

(a) Establishment of the Fund.--

(1) In general.-- There is established in the Treasury of the United States a fund to be known as the "Zuni Indian Tribe Water Rights Development Fund", to be managed and invested by the Secretary, consisting of--

(A) the amounts authorized to be appropriated in section 4(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) Additional deposits.-- The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) Management of the Fund.-- The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) Investment of the Fund.--The Secretary shall invest amounts in the Fund in accordance with-

(1) the Act of April 1, 1880 (21 Stat. 70, Ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, Ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) Availability of Amounts From the Fund.-- The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 9(a) have been met.

(e) Expenditures and Withdrawal.--

(1) Tribal management plan.--

(A) In general.-- The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) Requirements.-- In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 4(b).

(2) Enforcement.-- The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this Act.

(3) Liability.--If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) Expenditure plan.--

(A) In general.-- The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) Description.-- The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) Approval.-- On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) Annual report.-- The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) Funds for Acquisition of Water Rights.--

(1) Water rights acquisitions.-- Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 4(b)(1)--

(A) shall be available upon appropriation for use in accordance with section 4(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) Right to set off.-- In the event the requirements of section 9(a) have not been met and the Settlement Agreement has become null and void under section 9(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 4(b)(1), together with any interest accrued, against any claims asserted by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) Water rights.-- Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) No Per Capita Distributions.--No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

**Sec. 7. [Claims Extinguishment; Waivers and Releases.]--**

(a) Full Satisfaction of Members' Claims.--

(1) In general.-- The benefits realized by the Tribe and its members under this Act, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for--

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a).

(2) No recognition or establishment of individual water right.-- Nothing in this Act recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) Tribe and United States Authorization and Water Quantity Waivers.-- The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all--

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) Tribal Waivers Against the United States.-- The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all--

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 9(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the effective date described in section 9(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for

deprivation of water rights) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 9(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(d) Tribal Waiver of Water Quality Claims and Interference with Trust Claims.--

(1) Claims against the state and others.--

(A) Interference with trust responsibility.-- The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) Injury or threat of injury to water quality.-- The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 9(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
(VI) any combination of the causes described in subclauses (I) through (V).

(2) Claims of the United States.-- The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring-

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 9(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin, caused by—

(i) the lawful diversion or use of surface water;
(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;
(iii) the Parties' performance of any obligations under the Settlement Agreement;
(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
(vi) any combination of the causes described in clauses (i) through (v).

(2) Limitations.-- Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701et seq.), as described in subparagraph 11.4(D) (3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 9(a).

(e) Waiver of United States Water Quality Claims Related to Settlement Land and Water.-

(1) Past and present claims.-- As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for-

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 9(a) arising from or relating to water quality in

which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) Future claims.-- As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for--

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 9(a) caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) Effect.--Subject to subsections (b) and (e), nothing in this Act or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

**Sec. 8. [Miscellaneous Provisions.]**

(a) Waiver of Sovereign Immunity.-- If any party to the Settlement Agreement or a Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this Act, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 4(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under article 5 of the Settlement Agreement, naming the United States or the Tribe as a party--

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

(b) Tribal Use of Water.--

(1) In general.-- With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation--

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 9(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 5 that is reasonably

equivalent to State water law (including statutes relating to dam safety and groundwater management); and

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

(2) Limitation.--

(A) In general.-- Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on the Zuni Heaven Reservation to any other place.

(B) Exception.--Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) Rights-of-Way.--

(1) New and future trust land.-- The land taken into trust under subsections (a) and (b) of section 5 shall be subject to existing easements and rights-of-way.

(2) Additional rights-of-way.--

(A) In general.-- Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) Alternatives.-- If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) Certain Claims Prohibited.-- The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) Vested Rights.-- Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this Act and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this Act, the Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements

referred to in paragraph (1), (2), or (3) of section 4(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.
(f) Other Claims.-- Nothing in the Settlement Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.
(g) No Major Federal Action.--

(1) In general.--Execution of the Settlement Agreement by the Secretary as provided for in section 4(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321et seq.).

(2) Settlement agreement.-- In implementing the Settlement Agreement, the Secretary shall comply with all aspects of--

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

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

**Sec. 9. [Effective Date for Waiver and Release Authorizations.]--**
(a) In General.-- The waiver and release authorizations contained in subsections (b) and (c) of section 7 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This Act has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 4(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this Act and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) Deadline for Effective Date.-- If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 4 and 5, and any agreements entered into pursuant to sections 4 and 5 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 4(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to paragraph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

Approved June 23, 2003.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 222:
SENATE REPORT: No. 108-18, Comm. on Indian Affairs, March 10, 2003.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Feb. 27, 2003.
CONGRESSIONAL RECORD, Vol. 149 (2003):
Mar. 13, considered and passed Senate, Pg. S3755.
June 3, considered and rejected in House, Pg. H4809.
June 5, considered and passed House, Pg. H5029.

July 1, 2003

# SAN GABRIEL RIVER WATERSHED STUDY ACT

An Act to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes. [An act of July 1, 2003, Public Law 108-42, 117 Stat. 840]

**[Section 1. Short Title]--** This Act may be cited as the "San Gabriel River Watershed Study Act".

**Sec. 2. [Study of San Gabriel River Watershed.**

(a) In General.--The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall conduct a special resource study of the following areas:

(1) The San Gabriel River and its tributaries north of and including the city of Santa Fe Springs.

(2) The San Gabriel Mountains within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

(b) Study Conduct and Completion.-- Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study conducted under this section.

(c) Consultation with Federal, State, and Local Governments.-- In conducting the study under this section, the Secretary shall consult with the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and other appropriate Federal, State, and local governmental entities.

(d) Considerations.-- In conducting the study under this section, the Secretary shall consider regional flood control and drainage needs and publicly owned infrastructure such as wastewater treatment facilities.

**Sec. 3. [Report.]--** Not later than 3 years after funds are made available for this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report on the findings, conclusions, and recommendations of the study.

Approved July 1, 2003.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 519:
Senate Report: No. 108-65, Comm. on Energy and Natural Resources, June 9, 2003.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, May 27, 2003.
CONGRESSIONAL RECORD, Vol. 149 (2003):

Mar. 19, considered and passed House, Pg. H1963.
June 16, considered in Senate, Pg. S7934.
June 16, passed Senate, Pg. S7938.

December 1, 2003

# ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004

**[Extracts from]** An Act to make appropriations for energy and water development for the fiscal year ending September 30, 2004. [An act of December 1, 2003, Public Law 108-137, 117 Stat. 1827.]

* * * * *

## TITLE I
## DEPARTMENT OF DEFENSE--CIVIL
## DEPARTMENT OF THE ARMY
### Corps of Engineers--Civil

* * * * *

For the prosecution of river and harbor, flood control, shore protection, aquatic ecosystem restoration, and related projects authorized by law; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,722,319,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota:

Provided, That using $9,280,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the **Dallas Floodway Extension, Texas,** project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

Provided further, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the **Los Angeles Harbor, California**, project authorized by section 101(b)(5) of Public Law 106-541:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $750,000 of the funds provided herein to continue construction of the **Hawaii Water Management Project**:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,500,000 of the funds appropriated herein to continue construction of the navigation project at **Kaumalapau Harbor, Hawaii**:

* * * * *

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to rehabilitate the existing dredged material disposal site for the project for navigation, **Bodega Bay Harbor, California**, and to continue maintenance dredging of the Federal channel:

* * * * *

Provided further, That the Corps of Engineers shall not allocate any funds to deposit dredged material along the Laguna Madre portion of the Gulf Intracoastal Waterway except at the placement areas specified in the Dredged Material Management Plan in section 2.11 of the Final Environmental Impact Statement for Maintenance Dredging of the Gulf Intracoastal Waterway, Laguna Madre, Texas, Nueces, Kleberg, Kenedy, Willacy, and Cameron Counties, Texas, prepared by the Corps of Engineers dated September 2003:

Provided further, That nothing in the above proviso shall prevent the Corps of Engineers from performing necessary maintenance operations along the Gulf Intracoastal Waterway if the following conditions are met: if the Corps proposes to use any placement areas that are not currently specified in the Dredged Material Management Plan and failure to use such alternative placement areas will result in the closure of any segment of the Gulf Intracoastal Waterway, then such proposal shall be analyzed in an Environmental Impact Statement (EIS) and comply with all other applicable requirements of the National Environmental Policy Act, 42 U.S.C. 4321, et seq., and all other applicable State and Federal laws, including the Clean Water Act, 33 U.S.C. 1251 et seq., the Endangered Species Act, 16 U.S.C. 1531 et seq., and the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.:

Provided further, That $15,000,000 is provided to be used by the Secretary of the Army, acting through the Chief of Engineers, to repair, restore, and clean up projects and facilities of the Corps of Engineers and dredge navigation channels, restore and clean out area streams, provide emergency stream bank protection, restore other crucial public infrastructure (including water and sewer facilities), document flood impacts, and undertake other flood recovery efforts considered necessary by the Chief of Engineers:

* * * * *

**Sec. 105. Alamogordo, New Mexico.** The project for flood protection at Alamogordo, New Mexico, authorized by the Flood Control Act of 1962 (Public Law 87-874), is modified to authorize and direct the Secretary to construct a flood detention basin to protect the north side of the City of Alamogordo, New Mexico, from flooding. The flood detention basin shall be constructed to provide protection from a 100-year flood event. The project cost share for the flood detention basin shall be consistent with section 103(a) of the Water Resources Development Act of 1986, notwithstanding section 202(a) of the Water Resources Development Act of 1996.

* * * * *

**Sec. 111.** (a) The Secretary of the Army is authorized to provide technical, planning, design and construction assistance to non-Federal interests to remedy adverse environmental and human health impacts in Ottawa County, Oklahoma. In providing assistance, the Secretary shall coordinate with the State, Tribal, and local interests. The Secretary may undertake implementation of such activities as the Secretary determines to be necessary or advisable to demonstrate practicable alternatives, such activities shall include measures to address lead exposure and other environmental problems related to historical mining activities in the area.
(b) In carrying out subsection (a), the Secretary may utilize, through contracts or other means, the services of the University of Oklahoma, the Oklahoma Department of Environmental Quality, or such other entities as the Secretary determines to be appropriate.
(c) Notwithstanding any other provision of law, the Secretary shall not incur liability under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) for activities undertaken pursuant to this section.
(d) Non-Federal interests shall be responsible for providing any necessary lands, easements or rights-of-way required for implementation of activities authorized by this section and shall be

responsible for operating and maintaining any restoration alternatives constructed or carried out pursuant to this section. All other costs shall be borne by the Federal Government.
(e) There is authorized to be appropriated $15,000,000 to carry out the purposes of this section.

* * * * *

**Sec. 116**. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake appropriate planning, design, and construction measures for wildfire prevention and restoration in the Middle Rio Grande bosque in and around the City of Albuquerque. Work shall be directed toward those portions of the bosque which have been damaged by wildfire or are in imminent danger of damage from wildfire due to heavy fuel loads and impediments to emergency vehicle access.

**Sec. 117**. Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 142) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 595. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, AND RURAL UTAH.";

(2) in subsection (a)--

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(B) by striking (a) and all that follows through "means--" and inserting the following:

"(a) Definitions.--In this section:

"(1) Rural Nevada.--The term `rural Nevada' means"; and

(C) by adding at the end the following:

"(2) Rural Utah.--The term `rural Utah' means--

"(A) the counties of Box Elder, Cache, Rich, Tooele, Morgan, Summit, Dagett, Wasatch, Duchesne, Uintah, Juab, Sanpete, Carbon, Millard, Sevier, Emery, Grand, Beaver, Piute, Wayne, Iron, Garfield, San Juan, and Kane, Utah; and

"(B) the portions of Washington County, Utah, that are located outside the city of St. George, Utah.";

(3) in subsections (b) and (c), by striking "Nevada, Montana, and Idaho" and inserting "Idaho, Montana, rural Nevada, New Mexico, and rural Utah"; and

(4) in subsection (h), by striking "2001--" and all that follows and inserting "2001 $25,000,000 for each of Idaho, Montana, New Mexico, and rural Utah, to remain available until expended.".

* * * * *

**Sec. 119**. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 335) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

"(71) **Coronado, California**.--$10,000,000 is authorized for wastewater infrastructure, Coronado, California.".

* * * * *

**Sec. 121. Park River, Grafton, North Dakota.** Section 364(5) of the Water Resources Development Act of 1999 (113 Stat. 314) is amended--

(1) by striking "$18,265,000" and inserting "$21,075,000"; and

(2) by striking "$9,835,000" and inserting "$7,025,000".

* * * * *

**Sec. 124. Snake River Confluence Interpretative Center, Clarkston, Washington.**

(a) In General.--The Secretary of the Army, acting through the Chief of Engineers (referred to in this section as the “Secretary") is authorized and shall carry out a project to plan, design, construct, furnish, and landscape a federally owned and operated Collocated Civil Works Administrative Building and Snake River Confluence Interpretative Center, as described in the Snake River Influence Center Project Management Plan.

(b) Location.--The project--

(1) shall be located on Federal property at the confluence of the Snake River and the Clearwater River, near Clarkston, Washington; and

(2) shall be considered to be a capital improvement of the Clarkston office of the Lower Granite Project.

(c) Existing Structures.--In carrying out the project, the Secretary may demolish or relocate existing structures.

(d) Cost Sharing.--

(1) Total cost.-- The total cost of the project shall not exceed $3,500,000 (excluding interpretative displays).

(2) Federal share.-- The Federal share of the cost of the project shall be $3,000,000.

(3) Non-federal share.—

(A) In general.-- The non-Federal share of the cost of the project-- (i) shall be $500,000; and (ii) may be provided-- (I) in cash; or (II) in kind, with credit accorded to the non-Federal sponsor for provision of all necessary services, replacement facilities, replacement land (not to exceed 4 acres), easements, and rights-of-way acceptable to the Secretary and the non-Federal sponsor.

(B) Interpretive exhibits.-- In addition to the non-Federal share described in subparagraph (A), the non-Federal sponsor shall fund, operate, and maintain all interpretative exhibits under the project.

* * * * *

**Sec. 128. American River Watershed, California.**

(a) In General.-- The Secretary of the Army is authorized to carry out the project for flood damage reduction and environmental restoration, American River Watershed, California, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers dated November 5, 2002, at a total cost of $257,300,000, with an estimated Federal cost of $201,200,000 and an estimated non-Federal cost of $56,100,000; except that the Secretary is authorized to accept funds from State and local governments and other Federal agencies for the purpose of constructing a permanent bridge instead of the temporary bridge described in the recommended plan and may construct such permanent bridge if all additional costs for such bridge, above the $36,000,000 provided for in the recommended plan for bridge construction, are provided by such governments or agencies.

*** * * * ***

**Sec. 129. American and Sacramento Rivers, California**. The project for flood damage reduction, American and Sacramento Rivers, California, authorized by section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662-3663) and modified by section 366 of the Water Resources Development Act of 1999 (113 Stat. 319-320), is further modified to direct the Secretary to carry out the project, at a total cost of $205,000,000.

**Sec. 130. Placer and El Dorado Counties, California.**

(a) Establishment of Program.-- The Secretary of the Army may establish a program to provide environmental assistance to non-Federal interests in Placer and El Dorado Counties, California.

(b) Form of Assistance.-- Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties through water and wastewater projects, programs, and infrastructure.

(c) Ownership Requirement.-- The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) Partnership Agreements.--

(1) In general.-- Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.-- Each partnership agreement entered into under this subsection shall provide for the following:

(A) Plan.-- Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.--

(A) In general.-- The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) Credit for work.-- The Non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) Credit for interest.-- In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) Land, easements, and rights-of-way credit.— The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) Operation and maintenance.-- The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) Applicability of Other Federal and State Laws.--Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) Nonprofit Entities.-- Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(g) Corps of Engineers Expenses.-- Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.
(h) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $40,000,000. Such sums shall remain available until expended.
**Sec. 131. Sacramento Area, California.** Section 219(f)(23) of the Water Resources Development Act of 1992 (106 Stat. 4835-4836; 113 Stat. 336) is amended by striking "$25,000,000" and inserting "$35,000,000".
**Sec. 132. Upper Klamath Basin, California.**
(a) Definition of Upper Klamath Basin.-- In this section, the term "Upper Klamath Basin" means the counties of Klamath, Oregon, and Siskiyou and Modoc, California.
(b) Establishment of Program.-- The Secretary of the Army may establish a program to provide environmental assistance to non-Federal interests in the Upper Klamath Basin.
(c) Form of Assistance.-- Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in the Upper Klamath Basin through water and wastewater and ecosystem restoration projects, programs, and infrastructure.
(d) Ownership Requirement.-- The Secretary may provide assistance for a project under this section only if the project is publicly owned.
(e) Partnership Agreements.--

(1) In general.-- Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.
(2) Requirements.-- Each partnership agreement entered into under this subsection shall provide for the following:

(A) Plan.-- Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.
(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.—

(A) In general.-- The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.
(B) Credit for work.-- The Non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.
(C) Credit for interest.--In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.
(D) Land, easements, and rights-of-way credit.-- The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining

permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) Operation and maintenance.-- The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) Applicability of Other Federal and State Laws.-- Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) Nonprofit Entities.-- Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) Corps of Engineers Expenses.-- Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(i) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $25,000,000. Such sums shall remain available until expended.

**Sec. 133. Additional Assistance for Critical Projects.** Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335-337; 114 Stat. 2763A-220-221) is amended by adding at the end the following:

"(71) **Placer and El Dorado Counties, California**.-- $35,000,000 to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties, California, through water and wastewater projects, programs, and infrastructure.

"(72) **Lassen, Plumas, Butte, Sierra, and Nevada counties, California**.-- $25,000,000 to improve the efficiency and use of existing water supplies in the counties of Lassen, Plumas, Butte, Sierra, and Nevada, California, through water and waste water projects, programs, and infrastructure.".

* * * * *

**Sec. 140. San Francisco, California. Capital Improvement Project.—**

(1) Establishment of office.-- The Secretary shall establish a centralized office at the office of the district engineer, San Francisco, California, for the use of all Federal and State agencies that are or will be involved in issuing permits and conducting environmental reviews for the capital improvement project to repair and upgrade the water supply and delivery system for the city of San Francisco.

(2) Contributions.-- The Secretary may use the authority under section 214 of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note) for the project described in paragraph (1).

(3) Protection of impartial decisionmaking.-- In carrying out this section, the Secretary and the heads of Federal agencies receiving funds under such section 214 for the project described in paragraph (1) shall ensure that the use of the funds accepted under such section for such project will not impact impartial decision making with respect to the issuance of permits, either substantively or procedurally, or diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.

* * * * *

**Sec. 143. Los Angeles Harbor, Los Angeles, California.** The project for navigation, Los Angeles Harbor, Los Angeles, California, authorized by section 101(b)(5) of the Water

Resources Development Act of 2000 (114 Stat. 2577), is modified to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of the planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines the work is integral to the project.

**Sec. 144. San Lorenzo River, California**. The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1996 (110 Stat. 3663), is modified to direct the Secretary to credit not more than $2,000,000 toward the non-Federal share of the cost of the project for the cost of the work carried out by the non-Federal interest before the date of the project cooperation agreement for the project if the Secretary determines the work is integral to the project.

* * * * *

**Sec. 157. Harris Gully, Harris County, Texas.**

(a) Study.

(1) In general.--The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction in the Harris Gully watershed, Harris County, Texas, to provide flood protection for the Texas Medical Center, Houston, Texas.

(2) Use of local studies and plans.-- In conducting the study, the Secretary shall use, to the extent practicable, studies and plans developed by the non-Federal interest if the Secretary determines that such studies and plans meet the evaluation and design standards of the Corps of Engineers.

(3) Completion date.-- The Secretary shall complete the study by July 1, 2004.

(b) Critical Flood Damage Reduction Measures.-- The Secretary may carry out critical flood damage reduction measures that the Secretary determines are feasible and that will provide immediate and substantial flood damage reduction benefits in the Harris Gully watershed, at a Federal cost of $7,000,000.

(c) Credit.-- The Secretary shall credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that such work is integral to the project.

(d) Nonprofit Entity.-- Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), a nonprofit entity may, with the consent of the local government, serve as a non-Federal interest for the project undertaken under this section.

* * * * *

**TITLE II**

**DEPARTMENT OF THE INTERIOR**

**Central Utah Project**

For carrying out activities authorized by the Central Utah Project Completion Act, $36,463,000, to remain available until expended, of which $9,423,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,728,000, to remain available until expended.

**Bureau of Reclamation**

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation: For management, development, and restoration of water and related natural

resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $857,498,000, to remain available until expended, of which $51,330,000 shall be available for transfer to the Upper Colorado River Basin Fund and $33,570,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: :

Provided, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading:

Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis:

Provided further, That $1,000,000 is to be used for completion of the Santa Fe wells project in New Mexico through a cooperative agreement with the City of Santa Fe:
Provided further, That $10,000,000 of the funds appropriated herein shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of division B, title I of Public Law 106-554, as amended:

Provided further, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting “2003, and 2004" in lieu of “and 2003".

* * * * *

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $39,600,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575:

Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

* * * * *

**General Provisions**

**Sec. 201**. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of

the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program-Alternative Repayment Plan" and the "SJVDP-Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 202**. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

**Sec. 203**. Subsection 206(b) of Public Law 101-514 is amended as follows: In paragraph (1), strike ", with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to:

(i) promote full utilization of existing water entitlements within Sacramento County;

(ii) implement water conservation and metering programs within the areas served by the contract; and

(iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater".

**Sec. 204**. The Secretary of the Interior is authorized and directed to amend the Central Valley Project water supply contracts of the Sacramento County Water Agency and the San Juan Suburban Water District by deleting a provision requiring a determination of annual water needs included pursuant to section 206 of Public Law 101-514.

**Sec. 205. Lower Colorado River Basin Development.**

(a) In General.--Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) Payment to General Fund.-- If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) Authorization.-- Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

**Sec. 206.** The second paragraph under the heading "Administrative Provisions" in Public Law 102-377 (43 U.S.C. 377) is amended by inserting ", not to exceed $5,000,000 for each causal event giving rise to a claim or claims" after "activities of the Bureau of Reclamation".

Public Law 102-575

**Sec. 207**. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase:
Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.
**Sec. 208**.
(a) Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds appropriated for the current fiscal year or any prior Energy and Water Development Appropriations Act, or funds otherwise made available to the Commissioner of the Bureau of Reclamation, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.
(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion released by the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106-377, Public Law 107-66, and Public Law 108-7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (Hybognathus amarus) and the Southwestern Willow Flycatcher (Empidonax trailii extimus) on the Middle Rio Grande in New Mexico.
(c) This section applies only to those Federal agency and non-Federal actions addressed in the March 17, 2003 Biological Opinion.
(d) Subsection (b) will remain in effect for 2 years following the implementation of this Act.
**Sec. 209. Endangered Species Collaborative Program.**
(a) Using funds previously appropriated, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, for purposes of improving the efficiency and expediting the efforts of the Endangered Species Act Collaborative Program Workgroup, is directed to establish an executive committee of seven

(1) one member from the Bureau of Reclamation;
(2) one member from the Fish and Wildlife Service; and
(3) one member at large representing each of the following seven entities (selected at the discretion of the entity in consultation with the Bureau of Reclamation and the Fish and Wildlife Service) currently participating as signatories to the existing Memorandum of Understanding:

(A) other Federal agencies;
(B) State agencies;
(C) municipalities;
(D) universities and environmental groups;
(E) agricultural communities;
(F) Middle Rio Grande Pueblos (Sandia, Isleta, San Felipe, Cochiti, Santa Ana, and Santo Domingo); and
(G) Middle Rio Grande Conservancy District.

(b) Formation of this Committee shall not occur later than 45 days after enactment of this Act.
(c) Fiscal year 2004 appropriations shall not be obligated or expended prior to approval of a detailed spending plan by the House and Senate Committees on Appropriations.
(d) The above section shall come into effect within 180 days of enactment of this Act, unless the Bureau of Reclamation, in consultation with the above listed parties, has provided an alternative workgroup structure which has been approved by the House and Senate Committees on Appropriations.

**Sec. 210. Tularosa Basin National Desalination Research Facility.**

(a) Desalination Demonstration and Development.-- Pursuant to section 4(a) of Public Law 104-298; 110 Stat. 3622 (October 11, 1996), the Secretary may hereafter conduct or contract for the design, construction, testing and operation of the Tularosa Basin National Desalination Research Facility.
(b) The Tularosa Basin National Desalination Research Facility is hereafter exempt from all provisions of section 7 of Public Law 104-298; 110 Stat. 3622 (October 11, 1996). The Federal share of the cost of the Tularosa Basin National Desalination Research Facility may be up to 100 percent, including the cost of design, construction, operation, maintenance, repair and rehabilitation.

**Sec. 211.** The Secretary of the Interior, in carrying out CALFED-related activities, may undertake feasibility studies for Sites Reservoir, Los Vaqueros Reservoir Enlargement, and Upper San Joaquin Storage projects, hereafter. These storage studies should be pursued along with ongoing environmental and other projects in a balanced manner.

**Sec. 212**. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the states identified in the Act of June 17, 1902, as amended, and supplemented:

Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works:

Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies:

Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity:

Provided further, That this section shall not supercede any existing project-specific funding authority. The Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

**Sec. 213.** Hawaii Water Resources Study. The Hawaii Water Resources Act of 2000 (Public Law 106-566; 114 Stat. 2818) is amended--

(1) in section 103--

(A) in subsection (b)(1), by striking “Not" and all that follows through “the Secretary" and inserting “The Secretary" and

(B) in subsection (e), by striking “$300,000" and all that follows and inserting “$2,000,000 for the Federal share of the activities authorized under this section"; and

(2) in section 104(b), by striking “cost-effective," and all that follows and inserting “cost-effective.".

**Sec. 214.** Notwithstanding the provisions of title IV of Public Law 102-575 (106 Stat. 4648), the contributions of the Western Area Power Administration to the Utah Reclamation Mitigation and Conservation Account shall expire 10 fiscal years from the date of enactment of this Act. Such contributions shall be from an account established by the Western Area Power Administration for this purpose and such contributions shall be made available to the Utah Reclamation Mitigation and Conservation Account subject to appropriations. After 10 fiscal years from the date of enactment of this Act, the Utah Reclamation Mitigation and Conservation Commission is hereby authorized to utilize interest earned and accrued to the Utah Reclamation Mitigation and Conservation Account.

**Sec. 215. Tualatin River Basin, Oregon**.

(a) Authorization to Conduct Feasibility Study.-- The Secretary of the Interior may conduct a Tualatin River Basin water supply feasibility study--

(1) to identify ways to meet future water supply needs for agricultural, municipal, and industrial uses;

(2) to identify water conservation and water storage measures;

(3) to identify measures that would--

(A) improve water quality; and

(B) enable environmental and species protection; and

(4) as appropriate, to evaluate integrated water resource management and supply needs in the Tualatin River Basin, Oregon.

(b) Federal Share.-- The Federal share of the cost of the study conducted under subsection (a)-

(1) shall not exceed 50 percent; and

(2) shall be nonreimbursable and nonreturnable.

(c) Activities.-- No activity carried out under this section shall be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(d) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $2,900,000, to remain available until expended.

**Sec. 216. Facilitation of Indian Water Rights in Arizona**. In order to facilitate Indian water rights settlements in the State of Arizona, the Secretary may:

(1) Extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Act of August 4, 1939 (43 U.S.C 485h(d)) by irrigation districts who have contracts for water delivery from the Central Arizona Project.

(2) If requested by either the Gila River Indian Community or the San Carlos Apache Tribe, utilize appropriated funds transferred into the Lower Colorado River Basin Development Fund for construction of Indian Distribution systems to assist in the partial funding of costs associated with the on-reservation delivery of CAP water to these Indian tribes as set forth in the Bureau of Reclamation's FY 2004 Budget Justifications, PF-2B Schedules for construction of the Central Arizona Project. These funds shall be non-reimbursable Operation and Maintenance funds and shall not exceed amounts projected for construction by these Indian tribes as set forth in the Bureau of Reclamation's PF-2B Schedules that support the FY 2004 Budget Justifications for the Central Arizona Project.

**Sec. 217**. **Restoration of Fish and Wildlife Habitat, Provision of Bottled Water for Fallon Schoolchildren, and Associated Provisions.**

(a) In General.-- In carrying out section 2507 of Public Law 107-171, title II, subtitle F, the Secretary of Interior, acting through the Commissioner of Reclamation, shall--

(1) Notwithstanding section 2507 (b) of Public Law 107-171, title II, subtitle F, and in accordance with Public Law 101-618, provide $2,500,000 to the State of Nevada to purchase water rights from willing sellers and make necessary improvements to benefit Carson Lake and Pasture: Provided, That such funds shall only be provided by the Bureau of Reclamation when the title to Carson Lake and Pasture is conveyed to the State of Nevada.

(2) As soon as practicable after enactment, provide $133,000 to Families in Search of the Truth, Fallon, Nevada, for the purchase of bottled water and costs associated with providing such water to schoolchildren in Fallon-area schools.

(3) In consultation with the Pershing County Water Conservation District, the Commissioner shall expend $270,000 for the State of Nevada's costs associated with the National Environmental Policy Act review of the Humboldt Title Transfer: Provided, That notwithstanding Public Law 107-282, section 804(d)-(f), the State of Nevada shall pay any other costs assigned to the State as an entity receiving title in Public Law 107-282, section 804(b)-(e) or due to any reconveyance under Public Law 107-282, section 804(f), including any such National Environmental Policy Act costs that exceed the $270,000 expended by the Commissioner under this subparagraph.

(4) Provide $1,000,000 to the University of Nevada, Reno's Biodiversity initiative for public education and associated technical assistance and outreach concerning the issues affecting the restoration of Walker Lake.

(b) Administration.-- The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107-171.

**Sec. 218**. The Secretary of the Interior shall extend the term of the Sacramento River Settlement Contracts, long- and short-form, entered into by the United States with various districts and individuals, section 14 of the Reclamation Project Act of 1939 (53 Stat. 1197), for a period of 2 additional years after the date on which each of the contracts, respectively, would expire but for this section, or until renewal contracts are executed, whichever occurs earlier.

**Sec. 219.**

(a) Section 1(b) of Public Law 105-295 (112 Stat. 2820) is amended by striking the second sentence and inserting the following: “The Federal share of the costs of constructing the temperature control device and associated temperature monitoring facilities shall be 50 percent and shall be nonreimbursable. The temperature control device and associated temperature monitoring facilities shall be operated by the non-Federal facility owner at its expense in coordination with the Central Valley Project for the benefit and propagation of Chinook salmon and steelhead trout in the American River, California.".

(b) Section 1(c) of Public Law 105-295 (112 Stat. 2820) is amended by striking “$1,000,000" and inserting “$3,500,000".

**Sec. 220**. Not subject to fiscal year limitation, the Secretary of the Interior is hereafter authorized to implement, and enter into financial assistance or other agreements as may be necessary to undertake such activities identified for implementation (including construction) generally in

accordance with section III of, and the Pumping/Dam Removal Plan as defined in, United States District Court Consent Decree “United States, et al., v. Grants Pass Irrigation District, Civil No. 98-3034-HO" (August 27, 2001). There are authorized to be appropriated such sums as may be necessary to carry out this provision, and activities conducted under this provision shall be nonreimbursable and nonreturnable.

**Sec. 221.** Extension of Certain Irrigation Project Contracts. Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 114 Stat. 1441, 1441A-70) is amended--

(1) in subsection (a), by striking “December 31, 2003" and inserting “December 31, 2005"; and

(2) in subsection (b)--

(A) in the first sentence, by striking “beyond December 31, 2003" and inserting “beyond December 31, 2005"; and

(B) in the second sentence, by striking “prior to December 31, 2003" and inserting “before December 31, 2005".

* * * * *

This Act may be cited as the “Energy and Water Development Appropriations Act, 2004".

Approved December 1, 2003.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2754 (S. 1424):

House Report:

No. 108-212, Comm. on Appropriations, July 16, 2003.

No. 108-357, Comm. of Conference, Nov. 7, 2003.

Senate Report No. 108-105 accompanying S. 1424, Comm. on Appropriations, July 17, 2003.

CONGRESSIONAL RECORD, Vol. 149 (2003):

July 18, considered and passed House.

Sept. 11, 15, 16, considered and passed Senate, amended, in lieu of S. 1424.

Sept. 17, further amended in Senate.

Nov. 18, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 39 (2003):

Dec. 1, Presidential statement.

May 28, 2004

## SAN ANGELO PROJECT, TEXAS

An Act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes. [An act of May 28, 2004, Public Law 108-231, 118 Stat. 648]

**[Section 1. Tom Green County Water Control and Improvement District No. 1; Repayment Period Extended.]--** The Secretary of the Interior may revise the repayment contract with the Tom Green County Water Control and Improvement District No. 1 numbered 14-06-500-369, by extending the period authorized for repayment of reimbursable constructions costs of the San Angelo project from 40 years to 50 years.

Approved May 28, 2004.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 856:
Senate Report: No. 108-243, Comm. on Energy and Natural Resources, .March 9, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Feb. 25, 2004.
CONGRESSIONAL RECORD: Vol. 149 (2003): May 14, considered and passed House, Pg. H4031.
CONGJRESSIONAL RECORD: Vol. 150 (2004): May 19, considered and passed Senate, Pg. S5847.

May 28, 2004

## IRVINE BASIN SURFACE AND GROUNDWATER IMPROVEMENT ACT OF 2004

An Act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes. [An act of May 28, 2004, Public Law 108-233, 118 Stat. 654]

**[Section 1. Short Title.]**-- This Act may be cited as the "Irvine Basin Surface and Groundwater Improvement Act of 2004".

**Sec. 2. [Project Authorization.]--**

(a) In General.-- The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by inserting after section 1635 the following:

"SEC. 1636. IRVINE BASIN GROUNDWATER AND SURFACE WATER IMPROVEMENT PROJECTS.

"(a) Authorization.-- The Secretary, in cooperation with the Irvine Ranch Water District, California, is authorized to participate in the design, planning, and construction of projects to naturally treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the San Diego Creek Watershed.

"(b) Cost Share.-- The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.

"(c) Limitation.-- The Secretary shall not provide funds for the operation or maintenance of a project authorized by this section.".

(b) Clerical Amendment.-- The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended by inserting after the item relating to section 1635 the following:

"1636. Irvine basin groundwater and surface water improvement projects.".

Approved May 28, 2004.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 1598:
House Report: No. 108-306, Comm. on Resources, .Oct. 8, 2003.
Senate Report: No. 108-244, Comm. on Energy and Natural Resources, March 9, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, Oct.6, 2003
Senate Bill, Feb. 20, 2004.
CONGRESSIONAL RECORD: Vol. 149 (2003): Oct. 15, considered and passed House, Pg. H9409.
CONGRESSIIONAL RECORD: Vol. 150 (2004): May 19, considered and passed Senate, Pg. S5847.

October 5, 2004

# CARPINTERIA AND MONTECITO WATER DISTRIBUTION SYSTEMS CONVEYANCE ACT

An act to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California to the Carpinteria Valley Water District and the Montecito Water District. [An act of October 5, 2004, Public Law 108-315, 118 Stat. 1200]

**[Section 1. Short Title.]--** This Act may be cited as the "Carpinteria and Montecito Water Distribution Systems Conveyance Act of 2004".

**Sec. 2. [Conveyance of Water Distribution Systems of the Cachuma Project, California.]--**

(a) In General.-- The Secretary of the Interior—

(1) may convey to the Carpinteria Valley Water District, located in Santa Barbara County, California, all right, title, and interest of the United States in and to the Carpinteria Distribution System of the Cachuma Project, California, consistent with the terms and conditions set forth in the agreement entitled ``Agreement Between the United States and the Carpinteria Valley Water District to Transfer Title to the Federally Owned Distribution System to the Carpinteria Valley Water District" (Agreement No. 00-XC-20-0364); and

(2) may convey to the Montecito Water District, located in Santa Barbara County, California, all right, title, and interest of the United States in and to the Montecito Water Distribution System of the Cachuma Project, California, consistent with the terms and conditions set forth in the agreement entitled "Agreement Between the United States and the Montecito Water District to Transfer Title to the Federally Owned Distribution System to the Montecito Water District" (Agreement No. 01-XC-20-0365).

(b) Liability.-- Effective upon the date of conveyance of a distribution system under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the distribution system, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (popularly known as the Federal Tort Claims Act) on the date of the enactment of this Act.

(c) Benefits.-- After conveyance of a water distribution system to the Carpinteria Valley Water District or the Montecito Water District under this section--

(1) such water distribution system shall not be considered to be a part of a Federal reclamation project; and

(2) such water district shall not be eligible to receive any benefits with respect to any facility comprising that distribution system, except benefits that would be available to a similarly situated person with respect to such a facility that is not part of a Federal reclamation project.

Approved October 5, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 1648:
HOUSE REPORT: No. 108-363, Comm. on Resources, Nov. 17, 2003.
SENATE REPORT: No. 108-287, Comm. on Energy and Natural Resources, June 25, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate,
House Bill, Nov. 7, 2003
Senate Bill, June 18, 2004.
CONGRESSIONAL RECORD: Vol. 149 (2003):
Nov. 17, considered and passed House, Pg. H11358.
CONGRESSIONAL RECORD: Vol. 150 (2004):
Sept. 15, considered and passed Senate, Pg. S9332.

October 5, 2004

# WILLIAMSON COUNTY WATER RECYCLING ACT

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes. [An act of October 5, 2004, Public Law 108-316, 118 Stat. 1202]

**[Section 1. Project Authorization.]--**

(a) Short Title.-- This section may be cited as the "Williamson County Water Recycling Act of 2004".

(b) In General.-- The Reclamation Wastewater and Groundwater Study and Facilities Act (Title XVI of Public Law 102-575; 43 U.S.C. 390h et seq.) is amended by inserting after section 1635 the following new section:

"SEC. 1636. WILLIAMSON COUNTY, TEXAS, WATER RECYCLING AND REUSE PROJECT.

"(a) Authorization.-- The Secretary, in cooperation with the Lower Colorado River Authority, Texas, is authorized to participate in the design, planning, and construction of permanent facilities to reclaim and reuse water in Williamson County, Texas.

"(b) Cost Share.-- The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project described in subsection (a).".

**Sec. 2. [Clerical Amendment.]--** The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended by inserting after the item relating to section 1635 the following:

"Sec. 1636. Williamson County, Texas, Water Recycling and Reuse Project.".

Approved October 5, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 1732:
House Report: No. 108-364, Comm. on Resources, Nov. 17, 2003.
Senate Report: No. 108-288, Comm. on Energy and Natural Resources, June 25, 2004.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate,
House Bill, Nov. 6, 2003.
Senate Bill, June 18, 2004.
CONGRESSIONAL RECORD: Vol. 149 (2003): Nov. 17, considered and passed House, Pg. H11180.
CONGRESSIONAL RECORD; Vol. 150 (2004): Sept. 15, considered and passed Senate, Pg. S9332.

October 5, 2004

## MISSOURI RIVER BASIN PROJECT

An Act to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup Division is authorized to provide irrigation water under the Missouri River Basin project. [An act of October 5, 2004, Public Law 108-318, 118 Stat. 1211]

**[Section 1. Clarification of Acreage for Irrigation Water.]--** Section 501 of the Reclamation Project Authorization Act of 1972 (43 U.S.C. 615dddd) is amended by striking "fifty-three thousand acres" and inserting "approximately 53,000 acres".

Approved October 5, 2004.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 3209:
House Report: No. 108-356, Comm. on Resources, Nov. 7, 2003.
Senate Report No. 108-289, Comm. on Energy and Natural Resources, June 25, 2004.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate, House Bill, Nov. 6, 2003.
Senate Bill, June 18, 2004.
CONGRESSIONAL RECORD: Vol. 149 (2003): Nov. 17, considered and passed House, Pg. H11180
CONGRESSIONAL RECORD; Vol. 150 (2004): Sept. 15, considered and passed Senate, S9332.

October 21, 2004

# LEASE LOT CONVEYANCE ACT OF 2002 AMENDMENTS

An Act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes. [An act of October 21, 2004, Public Law 108-351, 118 Stat. 1394]

**[Section 1. Lease Lot Conveyance.]--** Section 4(b) of the Lease Lot Conveyance Act of 2002 (116 Stat. 2879) is amended--

(1) by striking "As consideration" and inserting the following:

"(1) In general.-- As consideration"; and

(2) by adding at the end the following:

"(2) Use.-- Amounts received under paragraph (1) shall be--

"(A) deposited by the Secretary, on behalf of the Rio Grande Project, in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

"(B) made immediately available to the Irrigation Districts, to be credited in accordance with section 4(I) of the Act of December 5, 1924 (43 U.S.C. 501).".

Approved October 21, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1791:
Senate Report: No. 108-272, Comm. on Energy and Natural Resources, May 20, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate,
Senate Bill, May 11, 2004.
Senate Bill as amended, Oct. 21, 2004.
CONGRESSIONAL RECORD, Vol. 150 (2004):
Sept. 15, considered and passed Senate, Pg. S9330.
Oct. 6, considered and passed House, Pg. H8349.

October 21, 2004

# CHIMAYO WATER SUPPLY SYSTEM AND ESPANOLA FILTRATION FACILITY ACT

An Act to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes. [An act of October 21, 2004, Public Law 108-354, 118 Stat. 1400]

**[Section 1. Short Title.]--** This Act may be cited as the "Chimayo Water Supply System and Espanola Filtration Facility Act of 2004".

## TITLE I--CHIMAYO WATER SUPPLY SYSTEM

**Sec. 101. [Definitions.]--** In this title:

(1) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(2) Study area.-- The term "study area" means the Santa Cruz River Valley in the eastern margin of the Espanola Basin.

(3) System.-- The term "system" means a water supply system described in section 102(a).

(4) Town.-- The term "Town" means the town of Chimayo, New Mexico, located in Rio Arriba County and Santa Fe County, New Mexico.

**Sec. 102. [Chimayo Water Supply System Feasibility Study.]**

(a) In General.-- The Secretary, in cooperation with appropriate State and local authorities, shall conduct a study to determine the feasibility of constructing a water supply system for the Town in the study area that includes potable water transmission lines, pump stations, and storage reservoirs.

(b) Scope of Study.-- In conducting the study under subsection (a), the Secretary shall--

(1) consider operating the system in connection with the Espanola Water Filtration Facility;

(2) consider various options for supplying water to the Town, including connection to a regional water source, local sources, sources distributed throughout the Town, and sources located on adjacent Bureau of Land Management land;

(3) consider reusing or recycling water from local or regional sources;

(4) consider using alternative water supplies such as surface water, brackish water, nonpotable water, or deep aquifer groundwater; and (5) determine the total lifecycle costs of the system, including--

(A) long-term operation, maintenance, replacement, and treatment costs of the system; and

(B) management costs (including personnel costs).

(c) Deadline for Study.-- As soon as practicable, but not later than 3 years after the date of enactment of this Act, the Secretary shall complete the study.

(d) Cost Sharing.-- The Federal share of the cost of the study shall be 75 percent.

(e) Coordination.-- The Secretary shall coordinate activities of the Bureau of Reclamation, the Bureau of Land Management, and the United States Geological Survey in the furtherance of the study, including--

(1) accessing any Bureau of Land Management land adjacent to the study area that is necessary to carry out this section; and

(2) the drilling of any exploratory wells on Bureau of Land Management land adjacent to the study area that are necessary to determine water resources available for the Town.

(f) Report.-- The Secretary shall submit to Congress a report on the results of the feasibility study not later than the earlier of--

(1) the date that is 1 year after the date of completion of the feasibility study; or

(2) the date that is 4 years after the date of enactment of this Act.

**Sec. 103. [Emergency Water Supply Development Assistance.]—**

(a) In General.-- The Secretary may enter into contracts with water authorities in the study area to provide emergency water supply development assistance to any eligible person or entity, as the Secretary determines to be appropriate.

(b) Eligible Activities.-- The Secretary may provide assistance under subsection (a) for—

(1) hauling water;

(2) the installation of water purification technology at the community wells or individual point-of-use;

(3) the drilling of wells;

(4) the installation of pump stations and storage reservoirs;

(5) the installation of transmission and distribution pipelines to bring water to individual residential service connections;

(6) the engineering, design, and installation of an emergency water supply system; and

(7) any other eligible activity, as the Secretary determines to be appropriate.

(c) Cost Sharing.-- The Federal share of the cost of any activity under this section shall be 75 percent.

**Sec. 104. [Authorization of Appropriations.]--**

(a) In General.-- There is authorized to be appropriated--

(1) to carry out section 102, $2,000,000 for the period of fiscal years 2005 through 2008; and

(2) to carry out section 103, $3,000,000 for the period of fiscal years 2005 through 2010.

(b) Limitation.-- Amounts made available under subsection (a)(1) shall not be available for the construction of water infrastructure for the system.

**TITLE II--ESPANOLA WATER FILTRATION FACILITY**

**Sec. 201. [DEFINITIONS.]-- In this title:**

(1) Component.-- The term “component" means a water delivery infrastructure development described in section 202(b).

(2) Facility.--The term “facility" means the Espanola water filtration facility described in section 202(a).

(3) Secretary.-- The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

**Sec. 202. [Espanola Water Filtration Facility.]--**

(a) In General.--The Secretary shall provide financial assistance to the city of Espanola, New Mexico, for the construction of an Espanola water filtration facility consisting of projects—

(1) to divert and fully use imported water to meet future demands in the greater Espanola, New Mexico region, including construction of--

(A) presedimentation basins for removal of sediments;

(B) an influent pump station to supply water into treatment facilities;

(C) a pretreatment facility;

(D) filtration facilities;

(E) finished water storage facilities;
(F) a finished water booster pump station;
(G) sludge dewatering facilities; and
(H) potable water transmission lines to connect into the water distribution facilities of the city of Espanola, New Mexico; and

(2) to use reclaimed water to enhance groundwater resources and surface water supplies.

(b) Participation.-- The Secretary may provide financial assistance to the Santa Clara and San Juan Pueblos of New Mexico and the non-Federal sponsors of the facility for the study, planning, design, and construction of a water delivery infrastructure development for the Santa Clara and San Juan Pueblos as a component of the facility.

(c) Cost Sharing.-- The Federal share of the total cost of the facility and the component shall not exceed 25 percent.

(d) Limitation on Use of Funds.-- Funds provided by the Secretary may not be used for the operation or maintenance of the facility or the component.

**Sec. 203. [Authorization of Appropriations.]--** There is authorized to be appropriated for the construction of the facility $3,000,000 for the period of fiscal years 2005 through 2009.

Approved October 21, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2511:
Senate Report: No. 108-328, Comm. on Energy and Natural Resources, August 25, 2004.
CONGRESSIONAL BUDGET OFFICE, Cost Estimate, Senate Bill, July 16, 2004.
CONGRESSIONAL RECORD, Vol. 150 (2004):
Sept. 15, considered and passed Senate, Pg. S9354.
Oct. 6, considered and passed House, Pg. H8350
BUREAU OF RECLAMATION TESTIMONY
June 17, 2004 (S. 2511) Senate Comm. on Energy and Natural Resources.

October 25, 2004

## WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

[Extracts from] An Act to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources. [An act of October 25, 2004, Public Law 108-361, 118 Stat. 1681]

**[Section 1. Short Title; Table of Contents.]--** (a) Short Title.-- This Act may be cited as the "Water Supply, Reliability, and Environmental Improvement Act".

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### TITLE I-- CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

**Sec. 101. [Short Title.]--** This title may be cited as the "CALFED Bay-Delta Authorization Act".

**Sec. 102. [Definitions.]--** In this title:

(1) CALFED Bay-Delta program.--The terms "CALFED Bay-Delta Program" and "Program" mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision.

(2) California Bay-Delta authority.-- The terms "California Bay-Delta Authority" and "Authority" mean the California Bay-Delta Authority, as set forth in the California Bay-Delta Authority Act (Cal. Water Code Sec. 79400 et seq.).

(3) Delta.-- The term "Delta" has the meaning given the term in the Record of Decision.

(4) Environmental water account.-- The term "Environmental Water Account" means the Cooperative Management Program established under the Record of Decision.

(5) Federal agencies.-- The term "Federal agencies" means--

(A) the Department of the Interior, including-- (i) the Bureau of Reclamation; (ii) the United States Fish and Wildlife Service; (iii) the Bureau of Land Management; and (iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries Service (also known as "NOAA Fisheries");

(E) the Department of Agriculture, including-- (i) the Natural Resources Conservation Service; and (ii) the Forest Service; and

(F) the Western Area Power Administration.

(6) Firm yield.-- The term "firm yield" means a quantity of water from a project or program that is projected to be available on a reliable basis, given a specified level of risk, during a critically dry period.

(7) Governor.-- The term "Governor" means the Governor of the State of California.

(8) Record of decision.-- The term "Record of Decision" means the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000.

(9) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(10) State.-- The term "State" means the State of California.

(11) State agencies.-- The term "State agencies" means--

(A) the Resources Agency of California, including-- (i) the Department of Water Resources; (ii) the Department of Fish and Game; (iii) the Reclamation Board; (iv) the Delta Protection Commission; (v) the Department of Conservation; (vi) the San Francisco Bay Conservation and Development Commission; (vii) the Department of Parks and Recreation; and (viii) the California Bay-Delta Authority;

(B) the California Environmental Protection Agency, including the State Water Resources Control Board;

(C) the California Department of Food and Agriculture; and

(D) the Department of Health Services.

**Sec. 103. [Bay Delta Program.]—**

(a) In General.--

(1) Record of decision as general framework.-- The Record of Decision is approved as a general framework for addressing the CALFED Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) Requirements.--

(A) In general.-- The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with-- (i) the Record of Decision; (ii) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and (iii) this title.

(B) Multiple benefits.-- In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

(b) Authorized Activities.-- The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) in furtherance of the CALFED Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been--

(1) subject to environmental review and approval, as required under applicable Federal and State law; and

(2) approved and certified by the relevant Federal agency, following consultation and coordination with the Governor, to be consistent with the Record of Decision.

(c) Authorizations for Federal Agencies Under Applicable Law.--

(1) Secretary of the interior.-- The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1) through (10) of subsection (d), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(2) Administrator of the environmental protection agency.-- The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under the

Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

(3) Secretary of the Army.-- The Secretary of the Army is authorized to carry out the activities described in paragraphs (1), (2), (6), (7), (8), and (9) of subsection (d), to the extent authorized under flood control, water resource development, other applicable law.

(4) Secretary of Commerce.-- The Secretary of Commerce is authorized to carry out the activities described in paragraphs (2), (6), (7), and (9) of subsection (d), to the extent authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(5) Secretary of agriculture.--The Secretary of Agriculture is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(d) Description of Activities Under Applicable Law.—

(1) Water storage.--

(A) In general.-- Activities under this paragraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and

(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and

(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

(iii) developing and implementing groundwater management and groundwater storage projects; and

(iv) comprehensive water management planning.

(B) Storage project authorization and balanced CALFED implementation.—

(i) In general.--If on completion of the feasibility study for a project described in clause (i) or (ii) of subparagraph (A), the Secretary, in consultation with the Governor, determines that the project should be constructed in whole or in part with Federal funds, the Secretary shall submit the feasibility study to Congress.

(ii) Finding of imbalance.-- If Congress fails no authorize construction of the project by the end of the next full session following the submission of the feasibility study, the Secretary, in consultation with the Governor, shall prepare a written determination making a finding of imbalance for the CALFED Bay-Delta Program.

(iii) Report on rebalancing.—

(I) In general.-If the Secretary makes a finding of imbalance for the Program under clause (ii), the Secretary, in consultation with the Governor, shall, not later than 180 days after the end of the full session described in clause (ii),

prepare and submit to Congress a report on the measures necessary to rebalance the Program.

(II) Schedules and alternatives.-- The report shall include preparation of revised schedules and identification of alternatives to rebalance the Program, including resubmission of the project to Congress with or without modification, construction of other projects, and construction of other projects that provide equivalent water supply and other benefits at equal or lesser cost.

(C) Water supply and yield study.—

(i) In general.-- The Secretary, acting through the Bureau of Reclamation and in coordination with the State, shall conduct a study of available water supplies and existing and future needs for water—

(I) within the units of the Central Valley Project;

(II) within the area served by Central Valley Project agricultural, municipal, and industrial water service contractors; and

(III) within the CALFED Delta solution area.

(ii) Relationship to prior study.--In conducting the study, the Secretary shall incorporate and revise, as necessary, the results of the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102-575; 106 Stat. 4730).

(iii) Report.-- Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study, including—

(I) new firm yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industry water service contractors, including those identified in Bulletin 160;

(II) all water management actions or projects, including those identified in Bulletin 160, that would—

(aa) improve firm yield or water supply; and

(bb) if taken or constructed, balance available water supplies and existing demand with due recognition of water right priorities and environmental needs;

(III) the financial costs of the actions and projects described under subclause (II); and

(IV) the beneficiaries of those actions and projects and an assessment of the willingness of the beneficiaries to pay the capital costs and operation and maintenance costs of the actions and projects.

(D) Management.-- The Secretary shall conduct activities related to developing groundwater storage projects to the extent authorized under law.

(E) Comprehensive water planning.-- The Secretary shall conduct activities related to comprehensive water management planning to the extent authorized under law.

(2) Conveyance.--

(A) South delta actions.—

(i) In general.--In the case of the South Delta, activities under this subparagraph consist of—

(I) the South Delta Improvements Program through actions to—

(aa) increase the State Water Project export limit to 8,500 cfs;

(bb) install permanent, operable barriers in the South Delta, under which Federal agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the South Delta, with an intent to complete that installation not later than September 30, 2007;

(cc) evaluate, consistent with the Record of Decision, fish screens and intake facilities at the Tracy Pumping Plant facilities; and

(dd) increase the State Water Project export to the maximum capability of 10,300 cfs;

(II) reduction of agricultural drainage in South Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality;

(III) evaluation of lower San Joaquin River floodway improvements;

(IV) installation and operation of temporary barriers in the South Delta until fully operable barriers are constructed; and

(V) actions to protect navigation and local diversions not adequately protected by temporary barriers.

(ii) Actions to increase pumping.--Actions to increase pumping shall be accomplished in a manner consistent with the Record of Decision requirement to avoid redirected impacts and adverse impacts to fishery protection and with any applicable Federal or State law that protects—

(I) water diversions and use (including avoidance of increased costs of diversion) by in-Delta water users (including in-Delta agricultural users that have historically relied on water diverted for use in the Delta);

(II) water quality for municipal, industrial, agricultural, and other uses; and

(III) water supplies for areas of origin.

(B) North delta actions.-- In the case of the North Delta, activities under this subparagraph consist of—

(i) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(ii) evaluation of a screened through-Delta facility on the Sacramento River; and

(iii) evaluation of lower Mokelumne River floodway improvements.

(C) Interties.-- Activities under this subparagraph consist of—

(i) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy, as an operation and maintenance activity, except that the Secretary shall design and construct the intertie in a manner consistent with a possible future expansion of the intertie capacity (as described in subsection (f)(1)(B)); and

(ii) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(D) Program to meet standards.—

(i) In general.-- Prior to increasing export limits from the Delta for the purposes of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.

(ii) Measures.-- In developing and implementing the program, the Secretary shall include, to the maximum extent feasible, the measures described in clauses (iii) through (vii).

(iii) Recirculation program.-- The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.

(iv) Best management practices plan.—

(I) In general.--The Secretary shall develop and implement, in coordination with the State's programs to improve water quality in the San Joaquin River, a best management practices plan to reduce the water quality impacts of the discharges from wildlife refuges that receive water from the Federal Government and discharge salt or other constituents into the San Joaquin River.

(II) Coordination with interested parties.-- The plan shall be developed in coordination with interested parties in the San Joaquin Valley and the Delta.

(III) Coordination with entities that discharge water.-- The Secretary shall also coordinate activities under this clause with other entities that discharge water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.

(v) Acquisition of water.-- The Secretary shall incorporate into the program the acquisition from willing sellers of water from streams tributary to the San Joaquin River or other sources to provide flow, dilute discharges of salt or other constituents, and to improve water quality in the San Joaquin River below the confluence of the Merced and San Joaquin Rivers, and to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives.

(vi) Purpose.-- The purpose of the authority and direction provided to the Secretary under this subparagraph is to provide greater flexibility in meeting the existing water quality standards and objectives for which the Central Valley Project has responsibility so as to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations to Central Valley Project contractors from the New Melones Project.

(vii) Updating of New Melones operating plan.-- The Secretary shall update the New Melones operating plan to take into account, among other things, the

actions described in this title that are designed to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives, and to ensure that actions to enhance fisheries in the Stanislaus River are based on the best available science.

(3) Water use efficiency.--

(A) Water conservation projects.-- Activities under this paragraph include water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the California Bay-Delta system.

(B) Technical assistance.-- Activities under this paragraph include technical assistance for urban and agricultural water conservation projects.

(C) Water recycling and desalination projects.-- Activities under this paragraph include water recycling and desalination projects, including groundwater remediation projects and projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs.

(D) Water measurement and transfer actions.-- Activities under this paragraph include water measurement and transfer actions.

(E) Urban water conservation.-- Activities under this paragraph include implementation of best management practices for urban water conservation.

(F) Reclamation and recycling projects.—

(i) Projects.-- This subparagraph applies to—

(I) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by section 1606 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-4); and

(II) projects identified in the San Francisco Bay Area Regional Water Recycling Program described in the San Francisco Bay Area Regional Water Recycling Program Recycled Water Master Plan, dated December 1999 and authorized by section 1611 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-9).

(ii) Deadline.-- Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(I) complete the review of the existing studies of the projects described in clause (i); and

(II) make the feasibility determinations described in clause (iii).

(iii) Feasibility determinations.-- A project described in clause (i) is presumed to be feasible if the Secretary determines for the project—

(I) in consultation with the affected local sponsoring agency and the State, that the existing planning and environmental studies for the project together with supporting materials and documentation) have been prepared consistent with Bureau of Reclamation procedures for projects under consideration for financial assistance under the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.); and

(II) that the planning and environmental studies for the project (together with supporting materials and documentation) demonstrate that the project will contribute to the goals of improving water supply reliability in the CALFED solution area or the Colorado River Basin within the State and otherwise meets the requirements of section 1604 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-2).

(iv) Report.-- Not later than 90 days after the date of completion of a feasibility study or the review of a feasibility study under this subparagraph, the Secretary shall submit to appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study or review.

(4) Water transfers.-- Activities under this paragraph consist of--

(A) increasing the availability of existing facilities for water transfers;

(B) lowering transaction costs through permit streamlining; and

(C) maintaining a water transfer information clearinghouse.

(5) Integrated regional water management plans.-- Activities under this paragraph consist of assisting local and regional communities in the State in developing and implementing integrated regional water management plans to carry out projects and programs that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional needs, in a manner that is consistent with, and makes a significant contribution to, the CALFED Bay-Delta Program.

(6) Ecosystem restoration.--

(A) In general.-- Activities under this paragraph consist of—

(i) implementation of large-scale restoration projects in San Francisco Bay and the Delta and its tributaries;

(ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetland and riparian habitat;

(iii) fish screen and fish passage improvement projects, including the Sacramento River Small Diversion Fish Screen Program;

(iv) implementation of an invasive species program, including prevention, control, and eradication;

(v) development and integration of Federal and State agricultural programs that benefit wildlife into the Ecosystem Restoration Program;

(vi) financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities;

(vii) water quality improvement projects to manage or reduce concentrations of salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;

(viii) land and water acquisitions to improve habitat and fish spawning and survival in the Delta and its tributaries;

(ix) integrated flood management, ecosystem restoration, and levee protection projects;

(x) scientific evaluations and targeted research on Program activities; and (xi) strategic planning and tracking of Program performance.

(B) Reporting requirements.-- The Secretary or the head of the relevant Federal agency (as appropriate under clause (ii)) shall provide to the appropriate authorizing committees of the Senate and the House of Representatives and other appropriate parties in accordance with this subparagraph—

(i) an annual ecosystem program plan report in accordance with subparagraph (C); and

(ii) detailed project reports in accordance with subparagraph (D).

(C) Annual ecosystem program plan.—

(i) In general.-- Not later than October 1 of each year, with respect to each ecosystem restoration action carried out using Federal funds under this title, the Secretary, in consultation with the Governor, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives an annual ecosystem program plan report.

(ii) Purposes.-- The purposes of the report are-- (I) to describe the projects and programs to implement this subsection in the following fiscal year; and (II) to establish priorities for funding the projects and programs for subsequent fiscal years.

(iii) Contents.-- The report shall describe—

(I) the goals and objectives of the programs and projects;

(II) program accomplishments;

(III) major activities of the programs;

(IV) the Federal agencies involved in each project or program identified in the plan and the cost-share arrangements with cooperating agencies;

(V) the resource data and ecological monitoring data to be collected for the restoration projects and how the data are to be integrated, streamlined, and designed to measure the effectiveness and overall trend of ecosystem health in the Bay-Delta watershed;

(VI) implementation schedules and budgets;

(VII) existing monitoring programs and performance measures;

(VIII) the status and effectiveness of measures to minimize the impacts of the program on agricultural land; and (IX) a description of expected benefits of the restoration program relative to the cost.

(iv) Special rule for land acquisition using federal funds.-- For each ecosystem restoration project involving land acquisition using Federal funds under this title, the Secretary shall—

(I) identify the specific parcels to be acquired in the annual ecosystem program plan report under this subparagraph; or

(II) not later than 150 days before the project is approved, provide to the appropriate authorizing committees of the Senate and the House of Representatives, the United States Senators from the State, and the United States Representative whose district would be affected, notice of any such proposed land acquisition using Federal funds under this title submitted to the Federal or State agency.

(D) Detailed project reports.—

(i) In general.--In the case of each ecosystem restoration program or project funded under this title that is not specifically identified in an annual ecosystem program plan under subparagraph (C), not later than 45 days prior to approval, the Secretary, in coordination with the State, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives recommendations on the proposed program or project.

(ii) Contents.-- The recommendations shall—

(I) describe the selection of the program or project, including the level of public involvement and independent science review;

(II) describe the goals, objectives, and implementation schedule of the program or project, and the extent to which the program or project addresses regional and programmatic goals and priorities;

(III) describe the monitoring plans and performance measures that will be used for evaluating the performance of the proposed program or project;

(IV) identify any cost-sharing arrangements with cooperating entities;

(V) identify how the proposed program or project will comply with all applicable Federal and State laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(VI) in the case of any program or project involving the acquisition of private land using Federal funds under this title—

(aa) describe the process and timing of notification of interested members of the public and local governments;

(bb) describe the measures taken to minimize impacts on agricultural land pursuant to the Record of Decision;

(cc) include preliminary management plans for all properties to be acquired with Federal funds, including an overview of existing conditions (including habitat types in the affected project area), the expected ecological benefits, preliminary cost estimates, and implementation schedules.

(7) Watersheds.--Activities under this paragraph consist of--

(A) building local capacity to assess and manage watersheds affecting the Delta system;

(B) technical assistance for watershed assessments and management plans; and

(C) developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(8) Water quality.-- Activities under this paragraph consists of--

(A) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that improve water quality) if—

(i) a plan is in place for monitoring downstream water quality improvements; and

(ii) State and local agencies are consulted on the activities to be funded; except that no right, benefit, or privilege is created as a result of this subparagraph;

(B) implementation of source control programs in the Delta and its tributaries;

(C) developing recommendations through scientific panels and advisory council processes to meet the CALFED Bay-Delta Program goal of continuous improvement in Delta water quality for all uses;
(D) investing in treatment technology demonstration projects;
(E) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;
(F) addressing water quality problems at the North Bay Aqueduct;
(G) supporting and participating in the development of projects to enable San Francisco Bay Area water districts, and water entities in San Joaquin and Sacramento Counties, to work cooperatively to address their water quality and supply reliability issues, including—
(i) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and
(ii) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be utilized to meet the objectives of this subparagraph;
(H) development of water quality exchanges and other programs to make high quality water available for urban and other users;
(I) development and implementation of a plan to meet all Delta water quality standards for which the Federal and State water projects have responsibility;
(J) development of recommendations through science panels and advisory council processes to meet the CALFED Bay-Delta Program goal of continuous improvement in water quality for all uses; and
(K) projects that are consistent with the framework of the water quality component of the CALFED Bay-Delta Program.

(9) Science.-- Activities under this paragraph consist of--
(A) supporting establishment and maintenance of an independent science board, technical panels, and standing boards to provide oversight and peer review of the Program;
(B) conducting expert evaluations and scientific assessments of all Program elements;
(C) coordinating existing monitoring and scientific research programs;
(D) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;
(E) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and
(F) preparing an annual science report.

(10) Diversification of water supplies.-- Activities under this paragraph consist of actions to diversify sources of level 2 refuge supplies and modes of delivery to refuges while maintaining the diversity of level 4 supplies pursuant to section 3406(d)(2) of the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4723).

(e) New and Expanded Authorizations for Federal Agencies.--

(1) In general.-- The heads of the Federal agencies described in this subsection are authorized to carry out the activities described in subsection (f) during each of fiscal years 2005 through 2010, in coordination with the Governor.

(2) Secretary of the Interior.-- The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1), (2), and (4) of subsection (f).

(3) Administrator of the environmental protection agency and the secretaries of Agriculture and Commerce.-- The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Commerce are authorized to carry out the activities described in subsection (f)(4).

(4) Secretary of the Army.-- The Secretary of the Army is authorized to carry out the activities described in paragraphs (3) and (4) of subsection (f).

(f) Description of Activities Under New and Expanded Authorizations.--

(1) Conveyance.-- Of the amounts authorized to be appropriated under section 109, not more than $184,000,000 may be expended for the following:

(A) San Luis Reservoir.-- Funds may be expended for feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project, except that Federal participation in any construction of an expanded Pacheco Reservoir shall be subject to future congressional authorization.

(B) Intertie.-- Funds may be expended for feasibility studies and evaluation of increased capacity of the intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal.

(C) Franks Tract.-- Funds may be expended for feasibility studies and actions at Franks Tract to improve water quality in the Delta.

(D) Clifton Court Forebay and the Tracy Pumping Plant.-- Funds may be expended for feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(E) Drinking water intake facilities.—

(i) In general.-- Funds may be expended for design and construction of the relocation of drinking water intake facilities to in-Delta water users.

(ii) Drinking water quality.-- The Secretary shall coordinate actions for relocating intake facilities on a time schedule consistent with subsection (d)(2)(A)(i)(I)(bb) or take other actions necessary to offset the degradation of drinking water quality in the Delta due to the South Delta Improvement Program.

(F) New Melones Reservoir.—

(i) In general.--In addition to the other authorizations granted to the Secretary by this title, the Secretary shall acquire water from willing sellers and undertake other actions designed to decrease releases from the New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility to assist in meeting allocations to Central Valley Project contractors from the New Melones Project.

(ii) Purpose.-- The authorization under this subparagraph is solely meant to add flexibility for the Secretary to meet any obligations of the Secretary to the Central Valley Project contractors from the New Melones Project by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River.

(iii) Funding.--Of the amounts authorized to be appropriated under section 109, not more than $30,000,000 may be expended to carry out clause (i).

(G) Recirculation of export water.-- Funds may be used to conduct feasibility studies, evaluate, and, if feasible, implement the recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(2) Environmental water account.--

(A) In general.-- Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended for implementation of the Environmental Water Account.

(B) Nonreimbursable federal expenditure.-- Expenditures under subparagraph (A) shall be considered a nonreimbursable Federal expenditure in recognition of the payments of the contractors of the Central Valley Project to the Restoration Fund created by the Central Valley Project Improvement Act (Title XXXIV of Public Law 102-575; 106 Stat. 4706).

(C) Use of restoration fund.—

(i) In general.-- Of the amounts appropriated for the Restoration Fund for each fiscal year, an amount not to exceed $10,000,000 for any fiscal year may be used to implement the Environmental Water Account to the extent those actions are consistent with the fish and wildlife habitat restoration and improvement purposes of the Central Valley Project Improvement Act.

(ii) Accounting.-- Any such use of the Restoration Fund shall count toward the 33 percent of funds made available to the Restoration Fund that, pursuant to section 3407(a) of the Central Valley Project Improvement Act, are otherwise authorized to be appropriated to the Secretary to carry out paragraphs (4) through (6), (10) through (18), and (20) through (22) of section 3406(b) of that Act. (iii) Federal funding.-- The $10,000,000 limitation on the use of the Restoration Fund for the Environmental Water Account under clause (i) does not limit the appropriate amount of Federal funding for the Environmental Water Account.

(3) Levee stability.--

(A) In general.-- For purposes of implementing the CALFED Bay-Delta Program within the Delta (as defined in Cal. Water Code 12220)), the Secretary of the Army is authorized to undertake the construction and implementation of levee stability programs or projects for such purposes as flood control, ecosystem restoration, water supply, water conveyance, and water quality objectives.

(B) Report.-- Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that describes the levee stability reconstruction projects and priorities that will be carried out under this title during each of fiscal years 2005 through 2010.

(C) Small flood control projects.-- Notwithstanding the project purpose, the authority granted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) shall apply to each project authorized under this paragraph.

(D) Projects.-- Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended to—

(i) reconstruct Delta levees to a base level of protection (also known as the "Public Law 84-99 standard");

(ii) enhance the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects Program;

(iii) develop best management practices to control and reverse land subsidence on Delta islands;

(iv) develop a Delta Levee Emergency Management and Response Plan that will enhance the ability of Federal, State, and local agencies to rapidly respond to levee emergencies;

(v) develop a Delta Risk Management Strategy after assessing the consequences of Delta levee failure from floods, seepage, subsidence, and earthquakes;

(vi) reconstruct Delta levees using, to the maximum extent practicable, dredged materials from the Sacramento River, the San Joaquin River, and the San Francisco Bay in reconstructing Delta levees;

(vii) coordinate Delta levee projects with flood management, ecosystem restoration, and levee protection projects of the lower San Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study; and

(viii) evaluate and, if appropriate, rehabilitate the Suisun Marsh levees.

(4) Program management, oversight, and coordination.--

(A) In general.-- Of the amounts authorized to be appropriated under section 109, not more than $25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

(i) Program support;

(ii) Program-wide tracking of schedules, finances, and performance;

(iii) multiagency oversight and coordination of Program activities to ensure Program balance and integration;

(iv) development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision;

(v) coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.); and

(vi) development of Annual Reports.

(B) Program-wide activities.-- Of the amount referred to in subparagraph (A), not less than 50 percent of the appropriated amount shall be provided to the California Bay-Delta Authority to carry out Program-wide management, oversight, and coordination activities.

**Sec. 104. [Management.]—**

(a) Coordination.--In carrying out the CALFED Bay-Delta Program, the Federal agencies shall coordinate their activities with the State agencies.

(b) Public Participation.-- In carrying out the CALFED Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through an advisory committee established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and design, technical assistance, and development of peer review science programs.

(c) Science.-- In carrying out the CALFED Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that--

(1) all major aspects of implementing the Program are subjected to credible and objective scientific review; and

(2) major decisions are based upon the best available scientific information.

(d) Governance.--

(1) In general.-- In carrying out the CALFED Bay-Delta Program, the Secretary and the Federal agency heads are authorized to participate as nonvoting members of the California Bay-Delta Authority, as established in the California Bay-Delta Authority Act (Cal. Water Code Sec. 794003 et seq.), to the extent consistent with Federal law, for the full duration of the period the Authority continues to be authorized by State law.

(2) Relationship to federal law and agencies.--Nothing in this subsection shall preempt or otherwise affect any Federal law or limit the statutory authority of any Federal agency.

(3) California Bay-Delta Authority.—

(A) Advisory committee.--The California Bay-Delta Authority shall not be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) Financial interest.-- The financial interests of the California Bay-Delta Authority shall not be imputed to any Federal official participating in the Authority.

(C) Ethics requirements.--A Federal official participating in the California Bay-Delta Authority shall remain subject to Federal financial disclosure and conflict of interest laws and shall not be subject to State financial disclosure and conflict of interest laws.

(e) Environmental Justice.-- The Federal agencies, consistent with Executive Order 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to--

(1) develop a comprehensive environmental justice workplan for the CALFED Bay-Delta Program; and

(2) fulfill the commitment to addressing environmental justice challenges referred to in the CALFED Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000.

(f) Land Acquisition.-- Federal funds appropriated by Congress specifically for implementation of the CALFED Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision.

**Sec. 105. [Reporting Requirements.]—**

(a) Report.--

(1) In general.-- Not later than February 15 of each year, the Secretary, in cooperation with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that--

(A) describes the status of implementation of all components of the CALFED Bay-Delta Program;

(B) sets forth any written determination resulting from the review required under subsection (b) or section 103(d)(1)(B); and

(C) includes any revised schedule prepared under subsection (b) or section 103(d)(1)(B)(iii)(II).

(2) Contents.-- The report required under paragraph (1) shall describe--

(A) the progress of the CALFED Bay-Delta Program in meeting the implementation schedule for the Program in a manner consistent with the Record of Decision;

(B) the status of implementation of all components of the Program;

(C) expenditures in the past fiscal year for implementing the Program.

(D) accomplishments during the past fiscal year in achieving the objectives of additional and improved—

(i) water storage;

(ii) water quality, including—

(I) the water quality targets described in section 2.2.9 of the Record of Decision; and

(II) any pending actions that may affect the ability of the CALFED Bay-Delta Program to achieve those targets and requirements;

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance;

(ix) water supply reliability (including new firm yield), including progress in achieving the water supply targets described in section 2.2.4 of the Record of Decision and any pending actions that may affect the ability of the CALFED Bay-Delta Program to achieve those targets; and

(x) the uses and assets of the environmental water account described in section 2.2.7 of the Record of Decision;

(E) Program goals, current schedules, and relevant financing agreements, including funding levels necessary to achieve completion of the feasibility studies and environmental documentation for the surface storage projects identified in section 103 by not later than September 30, 2008;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

(G) completion of key projects and milestones identified in the Ecosystem Restoration Program, including progress on project effectiveness, monitoring, and accomplishments;

(H) development and implementation of local programs for watershed conservation and restoration;

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;
(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a)) for implementation of projects in all identified Program areas;
(M) progress in achieving benefits in all geographic regions covered by the Program;
(N) legislative action on—
(i) water transfer;
(ii) groundwater management;
(iii) water use efficiency; and
(iv) governance;
(O) the status of complementary actions;
(P) the status of mitigation measures; and
(Q) revisions to funding commitments and Program responsibilities.

(b) Annual Review of Progress and Balance.--
(1) In general.-- Not later than November 15 of each year, the Secretary, in cooperation with the Governor, shall review progress in implementing the CALFED Bay-Delta Program based on--
(A) consistency with the Record of Decision; and
(B) balance in achieving the goals and objectives of the CALFED Bay-Delta Program.
(2) Revised schedule.-- If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary or the Governor determines in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving the goals and objectives of the Program is not occurring, the Secretary and the Governor, in coordination with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all CALFED Bay-Delta Program elements consistent with the intent of the Record of Decision.

(c) Feasibility Studies.-- Any feasibility studies completed as a result of this title shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

**Sec. 106. [Crosscut Budget.]--**

(a) In General.-- The President's budget shall include such requests as the President considers necessary and appropriate for the appropriate level of funding for each of the Federal agencies to carry out its responsibilities under the CALFED Bay-Delta Program.

(b) Requests by Federal Agencies.-- The funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds, in accordance with subsections (b) through (f) of section 103.

(c) Report.-- Not later than 30 days after submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report certified by the Secretary containing-
(1) an interagency budget crosscut report that--
(A) displays the budget proposed, including any interagency or intra-agency transfer, for each of the Federal agencies to carry out the CALFED Bay-Delta Program for the upcoming fiscal year, separately showing funding requested under both pre-existing authorities and under the new authorities granted by this title; and

(B) identifies all expenditures since 1998 by the Federal and State governments to achieve the objectives of the CALFED Bay-Delta Program;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and State agencies responsible for implementing the CALFED Bay-Delta Program during the previous fiscal year;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with
the Federal portion of funds for activities under subsections (b) through (f) of section 103; and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103.

**Sec. 107. [Federal Share of Costs.]--**

(a) In General.-- The Federal share of the cost of implementing the CALFED Bay-Delta Program for fiscal years 2005 through 2010 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

(b) Payment for Benefits.-- The Secretary shall ensure that all beneficiaries, including beneficiaries of environmental restoration and other CALFED program elements, shall pay for the benefit received from all projects or activities carried out under the CALFED Bay-Delta Program.

(c) Integrated Resource Planning.-- Federal expenditures for the CALFED Bay-Delta Program shall be implemented in a manner that encourages integrated resource planning.

**Sec. 108. [Compliance with State and Federal Law.]--** Nothing in this title—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water;

(3) preempts or modifies any State or Federal law or interstate compact governing water quality or disposal;

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource; or

(5) alters or modifies any provision of existing Federal law, except as specifically provided in this title.

**Sec. 109. [Authorization of Appropriation.]--** There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in subsections (e) and (f) of section 103 $389,000,000 for the period of fiscal years 2005 through 2010, to remain available until expended.

**TITLE II--MISCELLANEOUS**

**Sec. 201. [Salton Sea Study Program.]--** Not later than December 31, 2006, the Secretary of the Interior, in coordination with the State of California and the Salton Sea Authority, shall complete a feasibility study on a preferred alternative for Salton Sea restoration.

**Sec. 202. [Alder Creek Water Storage and Conservation Project Feasibility Study and Report.]—**

(a) Study.-- Pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the Secretary of the Interior (referred to in this section as the “Secretary"), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is

authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, in-stream flows, irrigation, and power production.

(b) Report.--

(1) Transmission.-- On completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) Contents of report.-- The report shall contain appropriate cost sharing options for the implementation of the project based on the use and possible allocation of any stored water.

(3) Use of available materials.--In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) Cost Share.--

(1) Federal share.-- The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) In-kind contribution for non-federal share.— The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $3,000,000.

**Sec. 203. [Folsom Reservoir Temperature Control Device Authorization.]--** Section 1(c) of Public Law 105-295 (112 Stat. 2820) (as amended by section 219(b) of Public Law 108-137 (117 Stat. 1853)) is amended in the second sentence by striking “$3,500,000" and inserting “$6,250,000".

Approved October 25, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2828:
House Report: No. 108-573, Pt. 1, Comm. on Resources, June 25, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 1, 2004.
CONGRESSIONAL RECORD, Vol. 150 (2004):

July 9, considered and passed House, Pg. H5416.
Sept. 15, considered and passed Senate, amended, Pg. S9360.
Oct. 6, House concurred in Senate amendment, Pg. H8224.

November 30, 2004

## SAN GABRIEL BASIN DEMONSTRATION PROJECT

An Act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project. [An act of November 30, 2004, Public Law 108-418, 118 Stat. 2340]

**[Section 1. Increase in Federal Share of San Gabriel Basin Demonstration Project.]--** Section 1631(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h-13) is amended--

(1) by striking "In the case" and inserting "(A) Subject to subparagraph (B), in the case"; and

(2) by adding at the end the following:

"(B) In the case of the San Gabriel Basin demonstration project authorized by section 1614, the Federal share of the cost of such project may not exceed the sum determined by adding-

"(i) the amount that applies to that project under subparagraph (A); and

"(ii) $6,500,000.".

Approved November 30, 2004.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 1284:
House Report: No. 108-204, Comm. on Resources, July 14, 2003.
Senate Report: No. 108-331, Comm. on Energy and Natural Resources, Aug. 25, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 25, 2003.
Senate Bill, July 22, 2004.
CONGRESSIONAL RECORD: Vol. 149 (2003):
Sept. 16, considered and passed House, Pg. H8230.
CONGRESSIONAL RECORD; Vol. 150 (2004):
Sept. 15, considered and passed Senate, amended, Pg. S9360.
Nov. 17, House concurred in Senate amendment, Pg. H9837.

December 3, 2004

## RECLAMATION SAFETY OF DAMS ACT AMENDMENT

An Act to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978. [An act of December 3, 2004, Public Law 108-439, 118 Stat. 2627]

**[Section 1. Additional Authorization of Appropriations for the Reclamation Safety of Dams Act of 1978.]--**

(a) Reimbursement of Certain Modification Costs.-- Section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)) is amended by striking "(c) With respect to" and all that follows through "2001" and inserting the following:

> "(c) Reimbursement of Certain Modification Costs.-- With respect to the additional amounts authorized to be appropriated by section 5".

(b) Authorization of Appropriations.-- Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended in the first sentence--

> (1) by inserting "and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels)," after "(October 1, 2001, price levels),"; and
>
> (2) by striking "$750,000" and inserting "$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,".

**Sec. 2. [Participation by Project Beneficiaries.]**

(a) Cost Containment; Modification Status.-- 4 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508) is amended by adding at the end the following:

> "(e)(1) During the construction of the modification, the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.
>
> "(2) The Secretary shall provide to project beneficiaries on a periodic basis notice regarding the costs and status of the modification.".

(b) Project Beneficiaries.-- The Reclamation Safety of Dams Act of 1978 is amended by inserting after section 5 (43 U.S.C. 509) the following:

> "Sec. 5A. (a) On identifying a Bureau of Reclamation facility for modification, the Secretary shall provide to the project beneficiaries written notice--
>
> "(1) describing the need for the modification and the process for identifying and implementing the modification; and
>
> "(2) summarizing the administrative and legal requirements relating to the modification.
>
> "(b) The Secretary shall--
>
> "(1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the proposed modification; and
>
> "(2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).
>
> "(c)(1) Prior to submitting the reports required under section 5, the Secretary shall consider any alternative submitted in writing, in accordance with the timeframes established under subsection (b), by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

"(2) The Secretary shall provide to the project beneficiary a timely written response describing proposed actions, if any, to address the recommendation.
"(3) The response of the Secretary shall be included in the reports required by section 5.

"(d) The Secretary may waive 1 or more of the requirements of subsections (a), (b), and (c), if the Secretary determines that implementation of the requirement could have an adverse impact on dam safety or security.".

Approved December 3, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1727 (H.R. 4893):
House Report: No. 108-757, accompanying H.R. 4893, Comm. on Resources, Oct. 7, 2004.
Senate Report: No. 108-296, Comm. on Energy and Natural Resources, July 7, 2004.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, June 23, 2004.
CONGRESSIONAL RECORD, Vol. 150 (2004):
Sept. 15, considered and passed Senate, Pg. S9339.
Nov. 17, considered and passed House, Pg. H983y.
BUREAU OF RECLAMATION TESTIMONY
Feb. 27, 2014; (S. 1946) Senate Comm. on Energy and Natural Resources.

December 8, 2004

# CONSOLIDATED APPROPRIATIONS ACT, 2005

[Extracts from] An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes. [An act of December 8, 2004, Public Law 108-447, 118 Stat. 2809]

**[Section 1. Short Title.]--** This Act may be cited as the "Consolidated Appropriations Act, 2005".

**Sec. 2. [Table of Contents.]--** The table of contents for this Act is as follows:

* * * * *

## DIVISION C-- ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2005

## TITLE I

## DEPARTMENT OF DEFENSE--CIVIL

## DEPARTMENT OF THE ARMY

**Corps of Engineers—Civil--** The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.

**General Investigations--** For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, $144,500,000, to remain available until expended:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $300,000 for the continued preconstruction, engineering, and design of **Waikiki Beach, Oahu, Hawaii**, the project to be designed and evaluated, as authorized and that any recommendations for a National Economic Development Plan shall be accepted notwithstanding the extent of recreation benefits supporting the project features, in view of the fact that recreation is extremely important in sustaining and increasing the economic well-being of the State of Hawaii and the nation:

Provided further, That in conducting the **Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico**, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff:

* * * * *

**Construction, General--** For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a

commitment of the Government to construction); and for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers, $1,796,089,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects, (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund:

Provided, That using $12,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the **Dallas Floodway Extension, Texas**, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

Provided further, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the **Los Angeles Harbor, California**, project authorized by section 101(b)(5) of Public Law 106-541:

Provided further, That the Secretary of the Army is directed to accept advance funds, or any portion thereof, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Oakland Harbor, California, project authorized by section 101(a)(7) of Public Law 106-53:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 of the funds provided herein to continue construction of the **Hawaii Water Management Project**:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,000,000 of the funds appropriated herein to continue construction of the navigation project at **Kaumalapau Harbor, Hawaii**:

*** * * * ***

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the construction of the **Seward Harbor, Alaska**, project, in accordance with the Report of the Chief of Engineers, dated June 8, 1999, and the economic justification contained therein:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the construction of the **False Pass, Alaska**, project, in accordance with the Report of the Chief of Engineers, dated December 29, 2000:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of the **Sand Point Harbor, Alaska** project, in accordance with the Report of the Chief of Engineers, dated October 13, 1998, and the economic justification contained therein:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct modifications to the Federal navigation project at **Thomsen Harbor, Sitka, Alaska**, authorized by section 101 of the Water Resources Development Act of 1992:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall correct the design deficiency at **Thomsen Harbor, Sitka, Alaska**, by adding to, or extending, the existing breakwaters to reduce wave and swell motion within the harbor at an additional cost of $1,000,000 at full Federal expense:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to continue the work to replace and upgrade the dam and all connections to the existing system at **Kake, Alaska**:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the construction of the **Wrangell Harbor, Alaska**, project in accordance with the Chief of Engineer's report dated December 23, 1999:

* * * * *

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed without further delay with work on the permanent bridge to replace **Folsom Bridge Dam Road, Folsom, California**, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137), and, of the $8,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, up to $5,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise:

* * * * *

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to rehabilitate the existing dredged material disposal site for the project for navigation, **Bodega Bay Harbor, California**, and to continue maintenance dredging of the Federal channel:

Provided further, That the Secretary shall make suitable material excavated from the **Bodega Bay Harbor, California**, disposal site as part of the rehabilitation effort available to the non-Federal sponsor, at no cost to the Federal Government, for use by the non-Federal sponsor in the development of public facilities:

Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake, at full Federal expense, a detailed evaluation of the **Albuquerque** levees for purposes of determining structural integrity, impacts of vegetative growth, and performance under current hydrological conditions:

* * * * *

**GENERAL PROVISIONS**
**Corps of Engineers—Civil—**

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**Sec. 104. Alamogordo, New Mexico**. The project for flood protection at Alamogordo, New Mexico, authorized by the Flood Control Act of 1962 (Public Law 87-874), is modified to authorize and direct the Secretary to construct a flood detention basin to protect the north side of the City of Alamogordo, New Mexico, from flooding. The flood detention basin shall be constructed to provide protection from a 100-year flood event. The project cost share for the flood detention basin shall be consistent with section 103(a) of the Water Resources Development Act of 1992, notwithstanding section 202(a) of the Water Resources Development Act of 1996.

* * * * *

**Sec. 108. Lake Tahoe Basin Restoration, Nevada and California**. (a) Definition.--In this section, the term “Lake Tahoe Basin" means the entire watershed drainage of Lake Tahoe

including that portion of the Truckee River 1,000 feet downstream from the United States Bureau of Reclamation dam in Tahoe City, California.

(b) Establishment of Program.-- The Secretary may establish a program for providing environmental assistance to non-Federal interests in Lake Tahoe Basin.

(c) Form of Assistance.-- Assistance under this section may be in the form of planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects in Lake Tahoe Basin--

(1) urban stormwater conveyance, treatment and related facilities;

(2) watershed planning, science and research;

(3) environmental restoration; and

(4) surface water resource protection and development.

(d) Public Ownership Requirement.-- The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) Local Cooperation Agreement.--

(1) In general.-- Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.-- Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) Plan.-- Development by the Secretary, in consultation with appropriate Federal and State and Regional officials, of appropriate environmental documentation, engineering plans and specifications.

(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.--

(A) In general.-- The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) Credit for design work.-- The Non-Federal interest shall receive credit for the reasonable costs of planning and design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project.

(C) Land, easements, rights-of-way, and relocations.--The Non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(D) Operation and maintenance.-- The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) Applicability of Other Federal and State Laws.-- Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2005, $25,000,000, to remain available until expended.

**Sec. 109**. Watershed Management and Development. Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended in subsection (c) by inserting the following: “The non-Federal share of the cost to provide assistance for the Lake Tahoe watershed, California and Nevada, and Walker River Basin, Nevada may be provided as work-in-kind.".

**Sec. 110.** The Assistant Secretary of the Army for Civil Works shall enter into an agreement with the Orange County Water District, Orange County, California for purposes of water conservation storage and operations to provide at a minimum a conservation level up to elevation 498 feet mean sea level during the flood season, and up to elevation 505 feet mean sea level during the non-flood season at Prado Dam, California. The Orange County Water District shall pay to the Government only the separable costs associated with implementation and operation and maintenance of Prado Dam for water conservation.

* * * * *

**Sec. 114. Coastal Wetland Conservation Project Funding.**

(a) Funding.-- Section 306 of the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3955) is amended--

(1) in subsection (a), by striking “, not to exceed $70,000,000,";

(2) in subsection (b), by striking “, not to exceed $15,000,000"; and

(3) in subsection (c), by striking “, not to exceed $15,000,000,".

(b) Period of Authorization.— Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)) is amended in the second sentence by striking “2009" and inserting “2019".

**Sec. 115.** The Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct a marina and associated facilities project capable of remaining in operation through extended drought conditions at Federal expense at **Lake Sakakawea, North Dakota**.

**Sec. 116. Central City, Fort Worth, Texas**. The project for flood control and other purposes on the Trinity River and Tributaries, Texas, authorized by the River and Harbor Act of 1965 (Public Law 89-298), as modified, is further modified to authorize the Secretary to undertake the Central City River Project, as generally described in the Trinity River Vision Master Plan, dated April 2003, as amended, at a total cost not to exceed $220,000,000, at a Federal cost of $110,000,000, and a non-Federal cost of $110,000,000, if the Secretary determines the work is technically sound and environmentally acceptable. The cost of work undertaken by the non-Federal interests before the date of execution of a project cooperation agreement shall be credited against the non-Federal share of project costs if the Secretary determines that the work is integral to the project.

**Sec. 117**. Notwithstanding any other provision of law, the Secretary of the Army is authorized to carry out, at full Federal expense, structural and non-structural projects for storm damage prevention and reduction, coastal erosion, and ice and glacial damage in Alaska, including relocation of affected communities and construction of replacement facilities.

**Sec. 118. Cook Inlet, Alaska**.

(a) Anchorage Harbor.--

(1) Harbor depth.-- The project for navigation improvements, Cook Inlet, Alaska (Anchorage Harbor, Alaska), authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299) and modified by section 199 of the Water Resources Development Act of 1976 (90 Stat. 2944), is further modified to direct the Secretary of the Army to construct

a harbor depth of minus 45 feet mean lower low water for a length of 10,860 feet at the modified Port of Anchorage intermodal marine facility at each phase of facility modification as such phases are completed and thereafter as the entire project is completed.

(2) Cost-sharing.-- If the Secretary determines that the modified **Port of Anchorage** will be used by vessels operated by the Department of Defense that have a draft of greater than 35 feet, the modification referred to in paragraph (1) shall be at full Federal expense.

(3) Transitional dredging.--Before completion of the project modification described in paragraph (1), the Secretary may conduct dredging to a depth of at least minus 35 feet mean lower low water in such locations as will allow maintenance of navigation and vessel access to the **Port of Anchorage** intermodal marine facility during modification of such facility. Such work shall be carried out by the Secretary in accordance with section 101 of the River and Harbor Act of 1958.

(4) Facilitating facility modification.--Before establishing the harbor depth of minus 45 feet mean lower low water, the Secretary may undertake dredging in accordance with section 101 of the River and Harbor Act of 1958 within the design footprint of the modified intermodal marine facility referred to in paragraph (1) to facilitate modification. The Secretary may carry out such dredging as part of operation and maintenance of the project modified by paragraph (1).

(5) Maintenance.-- Federal maintenance shall continue for the existing project until the modified intermodal marine facility is completed. Federal maintenance of the modified project shall be in accordance with section 101 of the River and Harbor Act of 1958; except that the project shall be maintained at a depth of minus 45 feet mean lower low water for 10,860 feet referred to in paragraph (1).

(b) Navigation Channel.-- The Secretary shall modify the channel in the exiting Cook Inlet Navigation Channel approach to **Anchorage Harbor, Alaska**, to run the entire length of Fire Island Range and Point Woronzof Range and shall modify the depth of that channel to minus 45 feet mean lower low water. The channel shall be maintained at a depth of minus 45 feet mean lower low water.

(c) Hydrodynamic Modeling.-- The Secretary shall carry out hydrodynamic modeling of the Knik Arm to identify causes of, and measures to address, shoaling at the **Port of Anchorage**, at a total cost of $3,000,000.

(d) Alternatives Analysis.-- No alternative other than the alternative authorized in this section shall be considered in any analysis of the modified project to be carried out by the Secretary in accordance with this section.

* * * * *

**Sec. 123.** With the funds previously provided under the account heading “Flood Control and Coastal Emergencies", the Secretary of the Army, acting through the Chief of Engineers is directed to provide assistance to Yakutat, Alaska Dam.

* * * * *

**TITLE II**
**DEPARTMENT OF THE INTERIOR**
**Central Utah Project**

**Central Utah Project Completion Account--** For carrying out activities authorized by the Central Utah Project Completion Act, $46,275,000, to remain available until expended, of which $15,469,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account

for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,734,000, to remain available until expended.

**Bureau of Reclamation--** The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

**Water and Related Resources (INCLUDING TRANSFER OF FUNDS)**-- For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $859,481,000, to remain available until expended, of which $53,299,000 shall be available for transfer to the Upper Colorado River Basin Fund and $33,794,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706:

Provided further, That such transfers may be increased or decreased within the overall appropriation under this heading:

Provided further, That of the total appropriated, the amount for program activities can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That $250,000 is provided under the Weber Basin project for the Park City, Utah feasibility study:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading:

Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis.

**Central Valley Project Restoration Fund**-- For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $54,695,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended:

Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575:

Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

* * * * *

**General Provisions, Department of the Interior**

**Sec. 201.** (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until

development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program-Alternative Repayment Plan" and the "SJVDP-Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 202.** None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

**Sec. 203. Lower Colorado River Basin Development.**

(a) In General.-- Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) Payment to General Fund.--If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) Authorization.--Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

**Sec. 204.** Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase:

Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm
within the State in which the purchase is made.

**Sec. 205**.

(a) Notwithstanding any other provision of law and hereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or

lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.
(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion released by the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106-377, Public Law 107-66, and Public Law 108-7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (Hybognathus amarus) and the Southwestern Willow Flycatcher (Empidonax trailii extimus) on the Middle Rio Grande in New Mexico.
(c) This section applies only to those Federal agencies and non-Federal actions addressed in the March 17, 2003 Biological Opinion.
(d). Subsection (b) will remain in effect until March 16, 2013.
**Sec. 206.** The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented:

Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works:

Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies:

Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity:

Provided further, That this section shall not supersede any existing project-specific funding authority:

Provided further, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

**Sec. 207. Animas-La Plata Non-Indian Sponsor Obligations**. In accordance with the nontribal repayment obligation specified in Subsection 6(a)(3)(B) of the Colorado Ute Indian Rights Settlement Act of 1988 (Public Law 100-585), as amended by the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554), the reimbursable cost upon which the cost allocation shall be based shall not exceed $43,000,000, plus interest during construction for those parties not utilizing the up front payment option, of the first $500,000,00 (January 2003 price level) of the total project costs. Consequently, the Secretary may forgive the obligation of the non-Indian sponsors relative to the $163,000,000 increase in estimated total project costs that occurred in 2003.

**Sec. 208. Montana Water Contracts Extension**. (a) Authority to Extend.--The Secretary of the Interior may extend each of the0 water contracts listed in subsection (b) until the earlier of--

(1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or

(2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).

(b) Extended Contracts.--The water contracts referred to in subsection (a) are the following:

(1) Contract Number 14-06-600-2078, as amended, for purchase of water between the United States of America and the City of Helena, Montana.

(2) Contract Number 14-06-600-2079, as amended, between the United States of America and the Helena Valley Irrigation District for water service.

(3) Contract Number 14-06-600-8734, as amended, between the United States of America and the Toston Irrigation District for water service.

(4) Contract Number 14-06-600-3592, as amended, between the United States and the Clark Canyon Water Supply Company, Inc., for water service and for a supplemental supply.

(5) Contract Number 14-06-600-3593, as amended, between the United States and the East Bench Irrigation District for water service.

Approved December 8, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 4818 (S. 2812):
HOUSE REPORT: Nos. 108-792, Comm. of Conference, Nov. 20, 2004.
CONGRESSIONAL RECORD, Vol. 150 (2004):
Nov. 19, House agreed to conference report, Pg. H10235.
Nov. 20, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):
Dec. 8, Presidential statement.

December 21, 2004

## NAMING OF 'F.H. HEWELL BUILDING' FACILITY

An Act to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the "F.H. Hewell Building." [An act of December 21, 2004, Public Law 108-462, 118 Stat. 3876]

**[Section 1. Designation.]--** The facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, shall be known and designated as the "F.H. Newell Building".

**Sec. 2. [References.]--** Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "F.H. Newell Building".

Approved December 21, 2004.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3124:
CONGRESSIONAL RECORD, Vol. 150 (2004):
Sept. 29, considered and passed House, Pg. H7813.
Dec. 7, considered and passed Senate, Pg. S11878.

August 2, 2005

## KENDRICK PROJECT, WYOMING

An Act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming. (An act of August 2, 2005, Public Law 109-48, 119 Stat. 455)

**[Section 1. Water Storage Contracts.]**

(a) Definitions.--In this Act:

(1) City.--The term "city" means--

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) Kendrick project.--The term "Kendrick Project" means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include--

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) Secretary.--The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) State.--The term "State" means the State of Wyoming.

(b) Contracts.--

(1) In general.--The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) Conditions.--

(A) Term; renewal.--A contract under paragraph (1) shall--

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) Revenues.--Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)--

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) Effect on existing contractors.--A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Approved August 2, 2005.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 1046:
CONGRESSIONAL RECORD, Vol. 151 (2005):
May 16, considered and passed House, Pg. H3275.
July 26, considered and passed Senate, Pg. S9051
BUREAU OF RECLAMATION TESTIMONY:
July 8, 2004 (S. 943) House Comm. on Natural Resources.

September 21, 2005

# HAWAII WATER RESOURCES ACT OF 2005

An Act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii. (An act of September 21, 2005, Public Law 109-70, 119 Stat. 2009)

**[Section 1. Short Title.]—** This Act may be cited as the "Hawaii Water Resources Act of 2005".

**Sec. 2. [Hawaii Reclamation Projects.]--**

(a) In General.--The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended--

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108-316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

"SEC. 1638. HAWAII RECLAMATION PROJECTS.

"(a) Authorization.-- The Secretary may--

"(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) Cost Share.-- The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.-- Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) Authorization of Appropriations.-- There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) Conforming Amendment.-- The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108-316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recycling and Reuse Project.

"Sec. 1638. Hawaii reclamation projects.".

Approved September 21, 2005.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 264:
Senate Report: No. 109-33, Comm. on Energy and Natural Resources, March 10, 2005.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Feb. 14, 2005.
CONGRESSIONAL RECORD, Vol. 151 (2005):
July 26, considered and passed Senate, Pg. S9034.
Sept. 13, considered and passed House, Pg. H7830.

November 19, 2005

# ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

**[Extracts from]** An Act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes. (An act of November 19, 2005, Public Law 109-103, 119 Stat. 2247)

## TITLE I: CORPS OF ENGINEERS—CIVIL
## DEPARTMENT OF THE ARMY
### Corps of Engineers--Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.

* * * * *

Provided, That the Chief of Engineers is directed to use $11,250,000 of the funds appropriated herein for the **Dallas Floodway Extension, Texas,** project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

Provided further, That the Chief of Engineers is directed to use $1,500,000 of the funds provided herein for the **Hawaii Water Management Project**:

Provided further, That the Chief of Engineers is directed to use $13,000,000 of the funds appropriated herein for the navigation project at **Kaumalapau Harbor, Hawaii**:

* * * * *

Provided further, That the Chief of Engineers is directed to proceed with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137), and, of the $15,000,000 available for the **American River Watershed (Folsom Dam Mini-Raise), California,** project, $10,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise:

Provided further, That $300,000 is provided for the Chief of Engineers to conduct a General Reevaluation Study on the **Mount St. Helens project** to determine if ecosystem restoration actions are prudent in the Cowlitz and Toutle watersheds for species that have been listed as being of economic importance and threatened or endangered:

Provided further, That $35,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410-r-8:

Provided further, That the Secretary is directed to use $2,000,000 of the funds appropriated herein to provide a grant to the **City of Caliente, Nevada**, for the City to expend for the purpose of purchasing construction equipment to be used by the City in constructing local flood control measures.

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### General provisions, corps of engineers--civil

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**Sec. 113. Truckee Meadows Flood Control Project, Nevada.--** The Non-Federal funds expended for purchase of lands, easements and rights-of-way, implementation of project monitoring and assessment, and construction and implementation of recreation, ecosystem restoration, and water quality improvement features, including the provision of 6700

acre-feet of water rights no later than the effective date of the Truckee River Operating Agreement for re-vegetation, reestablishment and maintenance of riverine and riparian habitat of the Lower Truckee River and Pyramid Lake, whether expended prior to or after the signing of the Project Cooperation Agreement (PCA), shall be fully credited to the non-Federal sponsor's share of costs for the project: Provided, That for the purposes of benefit-cost ratio calculations in the General Reevaluation Report (GRR), the Truckee Meadows Nevada Flood Control Project shall be defined as a single unit and non-separable.

* * * * *

**Sec. 119.** The project for navigation, **Los Angeles Harbor, California**, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Chief of Engineers to carry out the project at a total cost of $222,000,000.

**Sec. 120**. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

> "(72) **Alpine, California**.-- $10,000,000 is authorized for a water transmission main, Alpine, CA.".

*** * * * ***

**Sec. 124.** The project for flood control, **Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), Nevada**, authorized by section 101(13) of Public Law 102-580 and modified by Public Law 108-7 (H.J. Res. 2) Consolidated Appropriations Resolution, 2003, section 107 is further modified to provide that the costs incurred for design and construction of the project channel crossings in the reach of the channels from Shelbourne Avenue proceeding north along the alignment of Durango Drive and continuing east along the Southern Beltway to Martin Avenue shall be added to the authorized cost of the project and such costs shall be cost shared and shall not be considered part of the non-Federal sponsor's responsibility to provide lands, easements, and rights-of-way, and to perform relocations for the project.

*** * * * ***

**Sec. 128. American River Watershed, California (Folsom Dam and Permanent Bridge).—**
(a) Coordination of Flood Damage Reduction and Dam Safety.--The Secretary of the Army and the Secretary of the Interior are directed to collaborate on authorized activities to maximize flood damage reduction improvements and address dam safety needs at **Folsom Dam and Reservoir**, California. The Secretaries shall expedite technical reviews for flood damage reduction and dam safety improvements. In developing improvements under this section, the Secretaries shall consider reasonable modifications to existing authorized activities, including a potential auxiliary spillway. In conducting such activities, the Secretaries are authorized to expend funds for coordinated technical reviews and joint planning, and preliminary design activities.
(b) Secretary's Role.--Section 134 of Public Law 108-137 (117 Stat. 1842) is modified to read as follows:

> "SEC. 134. BRIDGE AUTHORIZATION.
> "There is authorized to be appropriated to the Secretary of the Army $30,000,000 for the construction of the permanent bridge described in section 128(a), above the $36,000,000 provided for in the recommended plan for bridge construction. The $30,000,000 shall not be subject to cost sharing requirements with non-Federal interests.".

(c) Conforming Change.-- Section 128(a) of Public Law 108-137 (117 Stat. 1838) is modified by deleting “above the $36,000,000 provided for in the recommended plan for bridge construction," and inserting in lieu thereof the following: “above the sum of the $36,000,000 provided for in the recommended plan for bridge construction and the amount authorized to be appropriated by section 134, as amended,".
(d) Maximum Cost of Project.-- The costs cited in subsections (b) and (c) shall be adjusted to allow for increases pursuant to section 902 of Public Law 99-662 (100 Stat. 4183). For purposes of making adjustments pursuant to this subsection, the date of authorization of the bridge project shall be December 1, 2003.
(e) Expedited Construction.-- The Secretary, in coordination with the Secretary of the Interior and affected non-Federal officials (including the **City of Folsom, California**), shall expedite construction of a new bridge and associated roadway authorized in Public Law 108-137. The Secretary, to the extent practicable, may construct such work in a manner that is compatible with the design and construction of authorized projects for flood damage reduction and dam safety. The Secretary and the Secretary of the Interior shall expedite actions under their respective jurisdictions to facilitate timely completion of construction.
(f) Report to Congress.-- The Secretary of the Army, in consultation with the Secretary of the Interior and non-Federal interests, shall report to Congress within ninety days of the date of enactment of this Act, and at four-month intervals thereafter, on the status and schedule of planning, design and construction activity.

* * * * *

**Sec. 134.** Project Modification.—
(a) In General.--The project for flood damage reduction, environmental restoration, recreation, **Johnson Creek, Arlington, Texas**, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280-281) is modified--

(1) to deauthorize the ecosystem restoration portion of the project that consists of approximately 90 acres of land located between Randol Mill and the Union Pacific East/West line; and

(2) to authorize the Secretary of the Army to design and construct an ecosystem restoration project on lands identified in subsection (c) that will provide the same or greater level of national ecosystem restoration benefits as the portion of the project described in paragraph (1).

(b) Credit Toward Federal Share.--The Secretary of the Army shall credit toward the Federal share of the cost of the modified project the costs incurred by the Secretary to carry out the project as originally authorized under section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280). The non-Federal interest shall not be responsible for reimbursing the Secretary for any amount credited under this subsection.
(c) Comparable Property.--Not later than 6 months after the date of enactment of this Act, the City of Arlington, Texas, shall identify lands, acceptable to the Secretary of the Army, amounting to not less than 90 acres within the City, where an ecosystem restoration project may be constructed to provide the same or greater level of National ecosystem restoration benefits as the land described in subsection (a)(1).

* * * * *

**Sec. 138. Akutan, Alaska.—**
**(**a) In General.--The Secretary of the Army is authorized to carry out the project for navigation, Akutan, Alaska, substantially in accordance with the plans, and subject to the

conditions, described in the Report of the Chief of Engineers dated December 20, 2004, at a total cost of $19,700,000.
(b) Treatment of Certain Dredging.-- The headlands dredging for the mooring basin shall be considered a general navigation feature for purposes of estimating the non-Federal share of the cost of the project.

* * * * *

**TITLE II: DEPARTMENT OF THE INTERIOR**
**Central Utah Project**
**Central Utah project completion account**-- For carrying out activities authorized by the Central Utah Project Completion Act, $32,614,000, to remain available until expended, of which $946,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.
In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,736,000, to remain available until expended.
**Bureau of Reclamation**-- The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:
**Water and related resources:** (including transfer of funds)-- For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $883,514,000, to remain available until expended, of which $59,544,000 shall be available for transfer to the Upper Colorado River Basin Fund and $21,998,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706:

Provided, that such transfers may be increased or decreased within the overall appropriation under this heading:

Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis:

Provided further, That $500,000 of the funds provided herein shall be used on a non-reimbursable basis to fund the collection of technical and environmental data to be used to evaluate potential rehabilitation of the St. Mary Storage Unit facilities, Milk River Project, Montana, and that Reclamation shall enter into cooperative agreements with the State of Montana or the Blackfeet Tribe to carry out such work if the Secretary determines such agreements would be cost-effective and efficient.

**Central Valley Project Restoration Fund**-- For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $52,219,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended:
Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575:

Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

**California Bay-Delta Restoration: (including transfer of funds)**-- For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, $37,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes:

Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management:

Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior:

Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program:

Provided further, That $500,000 shall be transferred to the Army Corps of Engineers to carry out the report on levee stability reconstruction projects and priorities authorized under section 103(f)(3) of Public Law 108-361.

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**General Provisions, Department of the Interior**

**Sec. 201.** (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan" and the “SJVDP-Alternative Repayment Plan" described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 202**. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

**Sec. 203.**

(a) Section 1(a) of the Lower Colorado Water Supply Act (Public Law 99-655) is amended by adding at the end the following: "The Secretary is authorized to enter into an agreement or agreements with the city of Needles or the Imperial Irrigation District for the design and construction of the remaining stages of the Lower Colorado Water Supply Project on or after November 1, 2004, and the Secretary shall ensure that any such agreement or agreements include provisions setting forth:

(1) the responsibilities of the parties to the agreement for design and construction;

(2) the locations of the remaining wells, discharge pipelines, and power transmission lines;

(3) the remaining design capacity of up to 5,000 acre-feet per year which is the authorized capacity less the design capacity of the first stage constructed;

(4) the procedures and requirements for approval and acceptance by the Secretary of the remaining stages, including approval of the quality of construction, measures to protect the public health and safety, and procedures for protection of such stages;

(5) the rights, responsibilities, and liabilities of each party to the agreement; and

(6) the term of the agreement.".

(b) Section 2(b) of the Lower Colorado Water Supply Act (Public Law 99-655) is amended by adding at the end the following: "Subject to the demand of such users along or adjacent to the Colorado River for Project water, the Secretary is further authorized to contract with additional persons or entities who hold Boulder Canyon Project Act section 5 contracts for municipal and industrial uses within the State of California for the use or benefit of Project water under such terms as the Secretary determines will benefit the interest of Project users along the Colorado River.".

**Sec. 204.** Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase:

Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

**Sec. 205.** The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented:

Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works:

Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies:

Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity:

Provided further, That this section shall not supersede any existing project-specific funding authority: Provided further, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

**Sec. 206. Water Desalination Act.--** Section 8 of Public Law 104-298 (The Water Desalination Act of 1996) (110 Stat. 3624) as amended by section 210 of Public Law 108-7 (117 Stat. 146) and by section 6015 of Public Law 109-13 is amended by--

(1) in paragraph (a) by striking "2005" and inserting in lieu thereof "2006"; and

(2) in paragraph (b) by striking "2005" and inserting in lieu thereof "2006".

**Sec. 207.** Section 17(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 as amended (Public Law 100-585, 102 Stat. 2973; Public Law 106-554, 114 Stat. 2763A-266) is amended by striking "within 7 years" and all that follows through "following the date of enactment of this section" and inserting ``for each of fiscal years 2006 through 2012".

**Sec. 208**.

(a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than $70,000,000 to the University of Nevada--

(A) to acquire from willing sellers land, water appurtenant to the land, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to--

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to--

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; PL 107-171), the Secretary shall provide not more than $10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be--

(A) acquired only from willing sellers;

(B) designed to maximize water conveyances to Walker Lake; and

(C) located only within the Walker River Paiute Indian Reservation.

(c) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary, acting through the Commissioner of Reclamation, shall provide--

(1) $10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to

Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) $5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and

Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

(d) For each day after June 30, 2006, on which the Bureau of Reclamation fails to comply with subsections (a), (b), and (c), the total amount made available for salaries and expenses of the Bureau of Reclamation shall be reduced by $100,000 per day.

**Sec. 209.** (a) The Secretary of the Interior is authorized to complete a special report to update the analysis of costs and associated benefits of the Auburn-Folsom South Unit, Central Valley Project, California authorized under Federal reclamation laws and the Act of September 2, 1965, Public Law 89-161, 79 Stat. 615 in order to--

(1) identify those project features that are still relevant;

(2) identify changes in benefit values from previous analyses and update to current levels;

(3) identify design standard changes from the 1978 Reclamation design which require updated project engineering;

(4) assess risks and uncertainties associated with the 1978 Reclamation design;

(5) update design and reconnaissance-level cost estimate for features identified under paragraph (1); and

(6) perform other analyses that the Secretary deems appropriate to assist in the determination of whether a full feasibility study is warranted.

(b) There are authorized to be appropriated $1,000,000 to carry out this section. The cost of completing this update shall be non-reimbursable.

* * * * *

Approved November 19, 2005.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2419:

House Report: No. 109-86, Comm. on Appropriations, May 18, 2005.
No. 109-275, Comm. of Conference, Nov. 7, 2005.

Senate Report: No. 109-84, Comm. on Appropriations, June 16, 2005.

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 24, Roll Call vote in House.
June 30, considered and passed Senate, amended, Pg. S7766.
Nov. 9, Roll Call vote in House on conference report.
Nov. 14, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Nov. 19, Presidential statement.

December 22, 2005

## SOUTHERN OREGON BUREAU OF RECLAMATION REPAYMENT ACT OF 2005

An Act to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District. (An act of December 22, 2005, Public Law 109-138, 119 Stat. 26470

**[Section 1. Short Title.]--** This Act may be cited as the "Southern Oregon Bureau of Reclamation Repayment Act of 2005".

**Sec. 2. [Early Repayment]--** Notwithstanding the provisions of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm), any landowner within Rogue River Valley Irrigation District or within Medford Irrigation District, in Oregon, may repay, at any time, the construction costs of the project facilities allocated to that landowner's lands within the district in question. Upon discharge, in full, of the obligation for repayment of the construction costs allocated to all lands the landowner owns in the district in question, those lands shall not be subject to the ownership and full-cost pricing limitations of the Act of June 17, 1902 (43 U.S.C. 371 et seq.), and Acts supplemental to and amendatory of that Act, including the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

**Sec. 3. [Limitation.]--** Nothing herein modifies contractual rights that may exist between Rogue River Valley Irrigation District and Medford Irrigation District and the United States under their respective Reclamation contracts, or amends or reopens those contracts; nor does it modify any rights, obligations or relationships that may exist between the districts and their landowners as may be provided or governed by Oregon State law.

**Sec. 4. [Certification.]--** Upon the request of a landowner who has repaid, in full, the construction costs of the project facilities allocated to that landowner's lands owned within the district, the Secretary of the Interior shall provide the certification provided for in subsection (b)(1) of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(b)(1).

Approved December 22, 2005.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--H.R. 4195 (S. 1760):
House Report: No. 109-323, Comm. on Resources, Dec. 6, 2005.
Senate Report: No. 109-197 accompanying S. 1760, Comm. on Energy and Natural Resources, Dec. 8, 2005.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate; House Bill, Nov. 29, 2005.
CONGRESSIONAL RECORD, Vol. 151 (2005):
Dec. 6, considered and passed House, Pg. H11044.
Dec. 16, considered and passed Senate, Pg. S13937
BUREAU OF RECLAMATION TESTIMONY:
Nov. 9, 2005 (H.R. 4195) House Comm. on Natural Resources.

March 20, 2006

# UPPER COLORADO AND SAN JUAN RIVER BASIN ENDANGERED FISH RECOVERY PROGRAMS REAUTHORIZATION ACT OF 2005

An Act to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs. (An act of March 20, 2006, Public Law 109-183, 120 Stat. 290)

**[Section 1. Short Title.]**
This Act may be cited as the "Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005".
**Sec. 2. [Upper Colorado and San Juan River Basin Endangered Fish Recovery Implementation Programs.]--** Section 3 of Public Law 106-392 (114 Stat. 1602; 116 Stat. 3113) is amended--
(1) in subsection (a)--
(A) in paragraph (1), by striking "$46,000,000" and inserting "$61,000,000";
(B) in paragraph (2), by striking "2008" and inserting "2010". and
(C) in paragraph (3), by striking "2008"and inserting "2010";
(2) in subsection (b)--
(A) by striking "$100,000,000" and inserting "$126,000,000";
(B) in paragraph (1)--
(i) by striking "$82,000,000" and inserting "$108,000,000"; and
(ii) by striking "2008" and inserting "2010"; and
(C) in paragraph (2), by striking "2008" and inserting "2010"; and
(3) in subsection (c)(4)--
(A) in the first sentence, by inserting "and the Elkhead Reservoir enlargement" after "Wolford Mountain Reservoir"; and
(B) in the second sentence, by striking "$20,000,000" and inserting "$31,000,000".

Approved March 20, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1578 (H.R. 3153):
House Report: No. 109-340 accompanying H.R. 3153, Comm. on Resources, Dec. 13, 2005.
Senate Report: No. 109-196, Comm. on Energy and Natural Resources, Dec. 8, 2005.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate, Senate Bill, Dec. 2, 2005.
CONGRESSIONAL RECORD: Vol. 151 (2005):
Dec. 16, considered and passed Senate, Pg. S13936.
CONGRESSIONAL RECORD: Vol. 152 (2006):
Mar. 8, considered and passed House.
BUREAU OF RECLAMATION TESTIMONY
Sept. 22, 2009 (H.R. 2288) BOR Fish Recovery Programs Reauthorization Act.

October 11, 2006

## NORTHERN COLORADO WATER CONSERVANCY DISTRICT CONVEYANCE

An Act to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District. (An act of October 11, 2006, Public Law 109-321, 120 Stat. 1753]

**[Section 1. Definitions.]--** In this Act:

(1) Contract.--The term “contract" means--

(A) the contract between the United States and the Northern Colorado Water Conservancy District providing for the construction of the Colorado-Big Thompson Project, dated July 5, 1938; and

(B) any amendments and supplements to the contract described in subparagraph (A).

(2) District.--The term “District" means the Northern Colorado Water Conservancy District.

(3) Secretary.--The term “Secretary" means the Secretary of the Interior.

(4) Transferred water distribution facilities.--The term “transferred water distribution facilities" means the following facilities of the Colorado-Big Thompson Project located in the counties of Larimer, Boulder, and Weld, Colorado:

(A) The St. Vrain Supply Canal.

(B) The Boulder Creek Supply Canal that extends from the St. Vrain River to Boulder Creek, including that portion that extends from the St. Vrain River to Boulder Reservoir, which is also known as the “Boulder Feeder Canal".

(C) The South Platte Supply Canal.

**Sec. 2. [Conveyance of Transferred Water Distribution Facilities.]--**

(a) In General.— The Secretary shall, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law, convey to the District all right, title, and interest in and to the transferred water distribution facilities.

(b) Consideration.—

(1) District.--

(A) Finding.-- Congress finds that the District has completed the obligation of the District to repay the capital costs of the Colorado-Big Thompson Project under the contract.

(B) No consideration required.-- The District shall not be required to provide additional consideration for conveyance of the transferred water distribution facilities under subsection (a).

(2) Electric customers.-- The Western Area Power Administration shall continue to include the unpaid portion of the transferred facilities in its annual power repayment studies for the Loveland Area Projects until such facilities are repaid in accordance with the laws and policies regarding repayment of investment in effect on the date of enactment of this Act.

(c) No Effect on Obligations and Rights.-- Except as expressly provided in this Act, nothing in this Act affects or modifies the obligations and rights of the District under the contract, including the obligation of the District to make payments required under the contract.

S**ec. 3. [Liability.]--** Except as otherwise provided by law, effective on the date of conveyance of the transferred water distribution facilities under this Act, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on any prior ownership or operation by the United States of the transferred water distribution facilities.

**Sec. 4. [Effect.]--** Any actions or activities undertaken by the Secretary under this Act shall not affect, impact, or create any additional burdens or obligations on the New Consolidated Lower Boulder Reservoir and Ditch Company or the New Coal Ridge Ditch Company in the full exercise of their rights to water, water rights, or real property rights or in the full exercise of their rights to utilize facilities affected by this Act.

**Sec. 5. [Reports.]--**

(a) In General.-- If the transferred water distribution facilities have not been conveyed by the Secretary to the District by the date that is 1 year after the date of enactment of this Act, not later than 30 days after that date, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes--

(1) the reasons for the failure to convey the transferred water distribution facilities; and

(2) the schedule for completing the transfer as soon as practicable.

(b) Annual Reports.-- The Secretary shall continue to provide annual reports that provide the information described in subsection (a) until the date on which the transferred water distribution facilities are conveyed in accordance with this Act.

Approved October 11, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3443:
House Report: No. 109-290, Comm. on Resources, Nov. 10, 2005.
Senate Report: No. 109-248, Comm. on Energy and Natural Resources, April 20, 2006.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate, Senate Bill, April 5, 2006.
CONGRESSIONAL RECORD: Vol. 151 (2005): Dec. 13, considered and passed House, Pg. H11444.
CONGRESSIONAL RECORD: Vol. 152 (2006): Sept. 29, considered and passed Senate, Pg. S10537.

November 27, 2006

## PACTOLA RESERVOIR REALLOCATION AUTHORIZATION ACT OF 2005

An Act to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes. (An act of November 27, 2006, Public Law 109-371, 120 Stat. 2644)

**[Section 1. Short Title.]** -- This Act may be cited as the "Pactola Reservoir Reallocation Authorization Act of 2005".

**Sec. 2. [Findings.]--** Congress finds that--

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

**Sec. 3. [Reallocation of Costs of Pactola Dam and Reservoir, South Dakota.]--** The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

Approved November 27, 2006.

### Explanatory Remarks

**LEGISLATIVE HISTORY**--S. 819 (H.R. 3967):
House Report: No. 109-431 accompanying H.R. 3967, Comm. on Resources, April 25, 2006.
Senate Report: No. 109-168, Comm. on Energy and Natural Resources, Oct. 27, 2005.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, Senate Bill, Oct. 17, 2005.
CONGRESSIONAL RECORD: Vol. 151 (2005):
April 15, Sponsor Introductory Remarks, Pg. S3736.
Nov. 16, considered and passed Senate, Pg. S13061.
CONGRESSIONAL RECORD: Vol. 152 (2006):
Nov. 13, considered and passed House, Pg. H8588
BUREAU OF RECLAMATION TESTIMONY
July 12, 2005 (S. 819) Senate Comm. on Energy and Natural Resources.

November 27, 2006

# FORT MCDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 2006

An Act to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes. An act of November 27, 2006, Public Law 109-373, 120 Stat. 2650)

**[Section 1. Short Title.]**-- This Act may be cited as the "Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006".

**Sec. 2. [Definitions**.]-- In this Act:

(1) Fort McDowell water rights settlement act.-- The term "Fort McDowell Water Rights Settlement Act" means the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101-628; 104 Stat. 4480).

(2) Nation.-- The term "Nation" means the Fort McDowell Yavapai Nation, formerly known as the "Fort McDowell Indian Community".

(3) Secretary.-- The term "Secretary" means the Secretary of the Interior.

**Sec. 3. [Cancellation of Repayment Obligation.]--**

(a) Cancellation of Obligation.-- The obligation of the Nation to repay the loan made under section 408(e) of the Fort McDowell Water Rights Settlement Act (104 Stat. 4489) is cancelled.

(b) Effect of Act.--

(1) Rights of nation under Fort McDowell water rights settlement act.--

(A) In general.-- Except as provided in subparagraph (B), nothing in this Act alters or affects any right of the Nation under the Fort McDowell Water Rights Settlement Act.

(B) Exception.-- The cancellation of the repayment obligation under subsection (a) shall be considered--

(i) to fulfill all conditions required to achieve the full and final implementation of the Fort McDowell Water Rights Settlement Act; and

(ii) to relieve the Secretary of any responsibility or obligation to obtain mitigation property or develop additional farm acreage under section 410 the Fort McDowell Water Rights Settlement Act (104 Stat. 4490).

(2) Eligibility for services and benefits.-- Nothing in this Act alters or affects the eligibility of the Nation or any member of the Nation for any service or benefit provided by the Federal Government to federally recognized Indian tribes or members of such Indian tribes.

Approved November 27, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2464:
Senate Report: No. 109-284, (Comm. on Indian Affairs).
CONGRESSIONAL BUDGET OFFICE: Report: Cost Estimate,
Senate Bill, July 13, 2006.
Senate Bill, Sept. 13, 2006 (Revised).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 13, considered and passed Senate, Pg. S9564.
Sept. 28, considered and passed House, Pg. H7735.

BUREAU OF RECLAMATION TESTIMONY

July 12, 2006 (H.R. 5299) House Comm. on Natural Resources.

# FRANNIE, WYOMING CONVEYANCE

To convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation. (An act of December 1, 2006, Public Law 109-380, 120 Stat. 2671)

**[Section 1: Conveyance of Land to the Town of Frannie, Wyoming.]**

(a) Conveyance.-- Subject to valid existing rights, the Secretary of the Interior shall convey by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the town of Frannie, Wyoming.

(b) Description of Land.-- The parcel of land referred to in subsection (a) is the parcel of land withdrawn by the Commissioner of Reclamation--

(1) consisting of approximately 37,500 square feet;

(2) located in the town of Frannie, Wyoming; and

(3) more particularly described in the approved Plat of Survey of Frannie Townsite, Wyoming, as the North \1/2\ of Block 26, T. 58 N, R. 97 W.

(c) Reservation of Mineral Rights.-- The conveyance under subsection (a) shall be subject to the reservation by the United States of any oil and gas rights.

(d) Revocations.--

(1) Special use permit.-- The special use permit issued by the Commissioner of Reclamation, numbered O-LM-60-L1413, and dated April 20, 1990, is revoked with respect to the land described in subsection (b).

(2) Secretarial orders.--The following Secretarial Orders issued by the Commissioner of Reclamation are revoked with respect to the land described in subsection (b):

(A) The Secretarial Order for the withdrawal of land for the Shoshone Reclamation Project dated October 21, 1913, as amended.

(B) The Secretarial Order for the withdrawal of land for the Frannie Townsite Reservation dated April 19, 1920.

Approved December 1, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 101:
Senate Report: No. 109-46, Comm. on Energy and Natural Resources, March 30, 2005.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate, Senate Bill, Feb. 22, 2005.
CONGRESSIONAL RECORD: Vol. 151 (2005): July 26, considered and passed Senate, Pg.S9046.
CONGRESSIONAL RECORD: Vol. 152 (2006): Nov. 15, considered and passed House, Pg. H8645.
BUREAU OF RECLAMATION TESTIMONY
Dec 7, 2005 (S. 101) House Comm. on Natural Resources.

December 12, 2006

## NAMING OF "C.W. BILL JONES PUMPING PLANT"

An Act to redesignate the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, as the "C.W. `Bill' Jones Pumping Plant". (An act of December 12, 2006, Public Law 109-384, 120 Stat. 2680)

**[Section 1. Redesignation of Facility.]--** The facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, and known as the Tracy Pumping Plant, shall be known and designated as the "C.W. `Bill' Jones Pumping Plant".
**Sec. 2. [References.]--** Any reference in a law, map, regulation, document, paper or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "C.W. `Bill' Jones Pumping Plant".

Approved December 12, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2383:
House Report: No. 109-247, Comm. on Resources, Oct. 17, 2005.
CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 8, considered and passed House, Pg. H651.
Nov. 16, considered and passed Senate, Pg. S11106
BUREAU OF RECLAMATION TESTIMONY
June 28, 2006 (H.R. 2383) Senate Comm. on Energy and Natural Resources.

December 18, 2006

# CONVEYANCE OF WATER RIGHTS TO DRY PRAIRIE RURAL ASSOCIATION, INC.

An Act to authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc. (An act of December. 18, 2006, Public Law 109-410, 120 Stat. 2762)

**[Section 1. Temporary Conveyance of Water Rights to Dry Prairie Rural Water Association, Inc.]--**

(a) In General.--The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana (referred to in this section as the "Tribes") may, with the approval of the Secretary, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85-20-201) with the Dry Prairie Rural Water Association, Incorporated (or any successor non-Federal entity) for the purpose of meeting the water needs of that association, in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106-382; 114 Stat. 1454).

(b) Conditions of Lease.-- With respect to a lease or other temporary conveyance described in subsection (a)--

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary without monetary compensation to the Tribes; and

(B) the Secretary shall not be subject to liability for any claim relating to any compensation or consideration received by the Tribes under the lease or conveyance.

(C) No Permanent Alienation of Water.-- Nothing in this section authorizes a permanent alienation of any water by the Tribes.

Approved December 18, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 1219 (H.R. 2978):
House Report: No. 109-419 accompanying H.R. 2978, Comm. on Resources, April 25, 2006.
Senate Report: No. 109-213, Comm. on Indian Affairs, Jan. 24, 2006.
CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 1, considered and passed Senate, Pg. S460.
Dec. 5, considered and passed House, Pg. H8695.

December 20, 2006

# NATIONAL INTEGRATED DROUGHT INFORMATION SYSTEM ACT OF 2006

An Act to establish a National Integrated Drought Information System within the National Oceanic and Atmospheric Administration to improve drought monitoring and forecasting capabilities. An act of December 20, 2006, Public Law 109-430, 120 Stat. 2918)

**[Section 1. Short Title.]--** This Act may be cited as the "National Integrated Drought Information System Act of 2006".

**Sec. 2. [Definitions.]--** In this Act:

(1) Drought.--The term "drought" means a deficiency in precipitation--

(A) that leads to a deficiency in surface or subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

(B) that causes or may cause--

(i) substantial economic or social impacts; or

(ii) substantial physical damage or injury to individuals, property, or the environment.

(2) Under secretary.--The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

**Sec. 3. [NIDIS Program.]**

(a) In General.-- The Under Secretary, through the National Weather Service and other appropriate weather and climate programs in the National Oceanic and Atmospheric Administration, shall establish a National Integrated Drought Information System.

(b) System Functions.-- The National Integrated Drought Information System shall--

(1) provide an effective drought early warning system that--

(A) is a comprehensive system that collects and integrates information on the key indicators of drought in order to make usable, reliable, and timely drought forecasts and assessments of drought, including assessments of the severity of drought conditions and impacts;

(B) communicates drought forecasts, drought conditions, and drought impacts on an ongoing basis to--

(i) decisionmakers at the Federal, regional, State, tribal, and local levels of government;

(ii) the private sector; and

(iii) the public, in order to engender better informed and more timely decisions thereby leading to reduced impacts and costs; and

(C) includes timely (where possible real-time) data, information, and products that reflect local, regional, and State differences in drought conditions;

(2) coordinate, and integrate as practicable, Federal research in support of a drought early warning system; and

(3) build upon existing forecasting and assessment programs and partnerships.

(c) Consultation.-- The Under Secretary shall consult with relevant Federal, regional, State, tribal, and local government agencies, research institutions, and the private sector in the development of the National Integrated Drought Information System.

(d) Cooperation from Other Federal Agencies.-- Each Federal agency shall cooperate as appropriate with the Under Secretary in carrying out this Act.

**Sec. 4. [Authorization of Appropriations.]--** There are authorized to be appropriated to carry out this Act--

(1) $11,000,000 for fiscal year 2007;
(2) $12,000,000 for fiscal year 2008;
(3) $13,000,000 for fiscal year 2009;
(4) $14,000,000 for fiscal year 2010;
(5) $15,000,000 for fiscal year 2011; and
(6) $16,000,000 for fiscal year 2012.

Approved December 20, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 5136 (S. 2751):
House Report: No. 109-503, Comm. on Science, June 15, 2006.
Senate Report: No. 109-356 accompanying S. 2751, Comm. on Commerce, Science, and Transportation, Sept. 29, 2006.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate, House Bill, June 7, 2006.
CONGRESSIONAL RECORD, Vol. 152 (2006):
April 6, Sponsor Introductory Remarks, Pg. E544.
Sept. 26, considered and passed House, Pg. H7484.
Dec. 6, considered and passed Senate, Pg. S11391.

December 22, 2006

## UNITED STATES – MEXICO TRANSBOUNDARY AQUIFER ASSESSMENT ACT

An Act to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes. (An act of December 22, 2006, Public Law 109-448, 120 Stat. 3328)

**[Section 1: Short Title.]**-- This Act may be cited as the "United States-Mexico Transboundary Aquifer Assessment Act".

**Sec. 2. [Purpose.]**-- The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to systematically assess priority transboundary aquifers.

**Sec. 3. [Definitions.]**-- In this Act:

(1) Aquifer.-- The term "aquifer" means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) IBWC.-- The term "IBWC" means the International Boundary and Water Commission, an agency of the Department of State.

(3) Indian tribe.-- The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community--

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) Participating state.-- The term "Participating State" means each of the States of Arizona, New Mexico, and Texas.

(5) Priority transboundary aquifer.-- The term "priority transboundary aquifer' means a transboundary aquifer that has been designated for study and analysis under the program.

(6) Program.--The term "program" means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(7) Reservation .-- The term "reservation' means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(8) Secretary.--The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(9) Transboundary aquifer.-- The term "transboundary aquifer" means an aquifer that underlies the boundary between a Participating State and Mexico.

(10) Tri-regional planning group.-- The term "Tri-Regional Planning Group" means the binational planning group comprised of--

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(11) Water resources research institutes.--The term "water resources research institutes" means the institutes within the Participating States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

**Sec. 4. [Establishment of Program.]**

(a) In General.--The Secretary, in consultation and cooperation with the Participating States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, and the IBWC, as appropriate, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model priority transboundary aquifers along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) Objectives.--The objectives of the program are to--

(1) develop and implement an integrated scientific approach to identify and assess priority transboundary aquifers, including--

(A) for purposes of subsection (c)(2), specifying priority transboundary aquifers for further analysis by assessing--

(i) the proximity of a proposed priority transboundary aquifer to areas of high population density;

(ii) the extent to which a proposed priority transboundary aquifer would be used;

(iii) the susceptibility of a proposed priority transboundary aquifer to contamination; and

(iv) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop--

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) consider the expansion or modification of existing agreements, as appropriate, between the United States Geological Survey, the Participating States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to--

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that--

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) Designation of Priority Transboundary Aquifers.--

(1) In general.-- For purposes of the program, the Secretary shall designate as priority transboundary aquifers--

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

(2) Additional aquifers.-- The Secretary may, using the criteria under subsection (b)(1)(A), evaluate and designate additional priority transboundary aquifers which underlie New Mexico or Texas.

(d) Cooperation With Mexico.-- To ensure a comprehensive assessment of priority transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) Grants and Cooperative Agreements.-- The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Participating State entities to carry out the program.

**Sec. 5. [Implementation of Program.]**

(a) Coordination with States, Tribes, and Other Entities.-- The Secretary shall coordinate the activities carried out under the program with--

(1) the appropriate water resource agencies in the Participating States;

(2) any affected Indian tribes;

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer; and

(4) the IBWC, as appropriate.

(b) New Activity.-- After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Participating State water resource agencies that have jurisdiction over the aquifer.

(c) Study Plans; Cost Estimates.—

(1) In general.-- The Secretary shall work closely with appropriate Participating State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) Requirements.-- A study plan developed under paragraph (1) shall, to the maximum extent practicable--

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

**Sec. 6. [Effect.]**

(a) In General.-- Nothing in this Act affects--

(1) the jurisdiction or responsibility of a Participating State with respect to managing surface or groundwater resources in the Participating State;

(2) the water rights of any person or entity using water from a transboundary aquifer; or

(3) State water law, or an interstate compact or international treaty governing water.

(b) Treaty.-- Nothing in this Act shall delay or alter the implementation or operation of any works constructed, modified, acquired, or used within the territorial limits of the United States relating to the waters governed by the Treaty Between the United States and Mexico Regarding Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Series 994 (59 Stat. 1219).

**Sec. 7. [Reports.]--** Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2016, the Secretary shall submit to the appropriate water resource agency in the Participating States, an interim and final report, respectively, that describes--

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of priority transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

**Sec. 8. [Authorization of Appropriations.]**

(a) In General.-- There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2007 through 2016.

(b) Distribution of Funds.-- Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

(c) Criteria.-- Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

**Sec. 9. [Sunset of Authority.]--** The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of enactment of this Act.

Approved December 22, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 214:
Senate Report:: No. 109-17, Comm. on Energy and Natural Resources, March 7, 2005.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate, Senate Bill, Feb. 14, 2005.
CONGRESSIONAL RECORD: Vol. 151 (2005):
July 26, considered and passed Senate, Pg. S9024.
CONGRESSIONAL RECORD: Vol. 152 (2006):
Dec. 6, considered and passed House, amended, Pg. H8853.
Dec. 8, Senate concurred in House amendment, Pg. S11830.

December 22, 2006

# RURAL WATER SUPPLY ACT OF 2006

[Extracts from] An Act to authorize the Secretary of the Interior to carry out a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents. (An act of December 22, 2006, Public Law 109-451, 120 Stat. 3345)

**[Sec. 1. Short Title: Table of Contents.]--** (a) Short Title.-- This Act may be cited as the "Rural Water Supply Act of 2006".

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## TITLE I--RECLAMATION RURAL WATER SUPPLY ACT OF 2006

**Sec. 101. [Short Title.]** This title may be cited as the "Reclamation Rural Water Supply Act of 2006".

**Sec. 102. [Definitions.]** In this title:

(1) Construction.-- The term "construction" means the installation of infrastructure and the upgrading of existing facilities in locations in which the infrastructure or facilities are associated with the new infrastructure of a rural water project recommended by the Secretary pursuant to this title.

(2) Federal reclamation law.-- The term "Federal reclamation law" means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(3) Indian.-- The term "Indian" means an individual who is a member of an Indian tribe.

(4) Indian tribe.-- The term ``Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) Non-federal project entity.-- The term "non-Federal project entity" means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

(6) Operations, maintenance, and replacement costs.—

(A) In general.-- The term "operations, maintenance, and replacement costs" means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

(B) Inclusions.--The term "operations, maintenance, and replacement costs" includes--

(i) repairs of a routine nature that maintain a rural water supply project in a well-kept condition;

(ii) replacement of worn-out project elements; and

(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

(C) Exclusion.-- The term "operations, maintenance, and replacement costs" does not include construction costs.

(7) Program.-- The term "Program" means the rural water supply program carried out under section 103.

(8) Reclamation states.-- The term "Reclamation States" means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

(9) Rural water supply project.--

(A) In general.--The term "rural water supply project" means a project that is designed to serve a community or group of communities, each of which has a population of not more than 50,000 inhabitants, which may include Indian tribes and tribal organizations, dispersed homesites, or rural areas with domestic, industrial, municipal, and residential water.

(B) Inclusion.-- The term "rural water supply project" includes--

(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

(ii) a project to improve rural water infrastructure, including--

(I) pumps, pipes, wells, and other diversions;

(II) storage tanks and small impoundments;

(III) water treatment facilities for potable water supplies, including desalination facilities;

(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

(V) appurtenances.

(C) Exclusion.-- The term "rural water supply project" does not include--

(i) commercial irrigation; or

(ii) major impoundment structures.

(10) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(11) Tribal organization.— The term "tribal organization" means--

(A) the recognized governing body of an Indian tribe; and

(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

**Sec. 103. [Rural Water Supply Program.]**

(a) In General.-- The Secretary, in cooperation with non-Federal project entities and consistent with this title, may carry out a rural water supply program in Reclamation States to--

(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for domestic, municipal, and industrial use in small communities and rural areas of the Reclamation States;

(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in Reclamation States; and

(3) oversee, as appropriate, the construction of rural water supply projects in Reclamation States that are recommended by the Secretary in a feasibility report developed pursuant to section 106 and subsequently authorized by Congress.

(b) Non-Federal Project Entity.-- Any activity carried out under this title shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this title.

(c) Eligibility Criteria.-- Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this title, develop and publish in the Federal Register criteria for-

(1) determining the eligibility of a rural community for assistance under the Program; and

(2) prioritizing requests for assistance under the Program.

(d) Factors.-- The criteria developed under subsection (c) shall take into account such factors as whether--

(1) a rural water supply project--

(A) serves--

(i) rural areas and small communities; or
(ii) Indian tribes; or

(B) promotes and applies a regional or watershed perspective to water resources management;

(2) there is an urgent and compelling need for a rural water supply project that would-

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs;

(3) a rural water supply project helps meet applicable requirements established by law; and

(4) a rural water supply project is cost effective.

(e) Inclusions.-- The Secretary may include--

(1) to the extent that connection provides a reliable water supply, a connection to pre-existing infrastructure (including impoundments and conveyance channels) as part of a rural water supply project; and

(2) notwithstanding the limitation on population under section 102(9)(A), a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

**Sec. 104. [Rural Water Programs Assessment.]**

(a) In General.-- In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Director of the Indian Health Service, the Secretary of Housing and Urban Development, and the Secretary of the Army, the Secretary shall develop an assessment of--

(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to the date of enactment of this Act, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

(2) the current plan (including projected financial and workforce requirements) for the completion of the projects identified in paragraph (1) within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

(3) the demand for new rural water supply projects;

(4) rural water programs within other agencies and a description of the extent to which those programs provide support for rural water supply projects and water treatment programs in Reclamation States, including an assessment of the requirements, funding levels, and conditions of eligibility for the programs assessed;

(5) the extent of the demand that the Secretary can meet with the Program;

(6) how the Program will complement authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults; and

(7) improvements that can be made to coordinate and integrate the authorities of the agencies with programs evaluated under paragraph (4), including any recommendations to consolidate some or all of the activities of the agencies with respect to rural water supply.

(b) Consultation with States.-- Before finalizing the assessment developed under subsection (a), the Secretary shall solicit comments from States with identified rural water needs.

(c) Report.-- Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

**Sec. 105. [Appraisal Investigations.]**

(a) In General.-- On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 103(c) and subject to the availability of appropriations, the Secretary may--

(1) receive and review an appraisal investigation that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity;

(2) conduct an appraisal investigation; or

(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that--

(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 103(c); and

(B) using the non-Federal project entity to conduct the appraisal investigation is a cost-effective alternative for completing the appraisal investigation.

(b) Deadline.-- An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

(c) Appraisal Report.-- In accordance with subsection (f), after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that--

(1) considers--

(A) whether the project meets--

(i) the appraisal criteria developed under subsection (d); and

(ii) the eligibility criteria developed under section 103(c);

(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

(C) whether the project has a positive effect on public health and safety;

(D) whether the project will meet water demand, including projected future needs;

(E) the extent to which the project provides environmental benefits, including source water protection;

(F) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

(G) whether the project--

(i)(I) implements an integrated resources management approach; or

(II) enhances water management flexibility, including providing for--

(aa) local control to manage water supplies under varying water supply conditions; and

(bb) participation in water banking and markets for domestic and environmental purposes; and

(ii) promotes long-term protection of water supplies;

(H) preliminary cost estimates for the project; and

(I) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

(2) provides recommendations on whether a feasibility study should be initiated under section 106(a).

(d) Appraisal Criteria.--

(1) In general.-- Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

(2) Inclusions.--To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

(e) Review of Appraisal Investigation.--

(1) In general.--Not later than 90 days after the date of submission of an appraisal investigation under paragraph (1) or (3) of subsection (a), the Secretary shall provide to the non-Federal entity that conducted the investigation a determination of whether the investigation has included the information necessary to determine whether the proposed rural water supply project satisfies the criteria promulgated under subsection (d).

(2) No satisfaction of criteria.-- If the Secretary determines that the appraisal investigation submitted by a non-Federal entity does not satisfy the criteria promulgated under subsection (d), the Secretary shall inform the non-Federal entity of the reasons why the appraisal investigation is deficient.

(3) Responsibility of secretary.-- If an appraisal investigation as first submitted by a non-Federal entity does not provide all necessary information, as defined by the Secretary, the Secretary shall have no obligation to conduct further analysis until the non-Federal project entity submitting the appraisal study conducts additional investigation and resubmits the appraisal investigation under this subsection.

(f) Appraisal Report.-- Once the Secretary has determined that an investigation provides the information necessary under subsection (e), the Secretary shall--

(1) complete the appraisal report required under subsection (c);

(2) make available to the public, on request, the appraisal report prepared under this title; and

(3) promptly publish in the Federal Register a notice of the availability of the results.

(g) Costs.--

(1) Federal share.-- The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

(2) Non-federal share.--

(A) In general.-- Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than $200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

(B) Exception.-- The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

(C) Form.-- The Non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the appraisal investigation.

(h) Consultation; Identification of Funding Sources.-- In conducting an appraisal investigation under subsection (a)(2), the Secretary shall--

(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

(2) consult with the heads of appropriate Federal agencies to--

(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

(3) identify what funding sources are available for the proposed rural water supply project.

**Sec. 106. [Feasibility Studies.]**

(a) In General.-- On completion of an appraisal report under section 105(c) that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall--

(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

(2) receive and review a feasibility study that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity; or

(3)(a) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that--

(i) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

(ii) using the non-Federal project entity to conduct the feasibility study is a cost-effective alternative for completing the appraisal investigation; or

(B) if the Secretary determines not to provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity under subparagraph (A), provide to the non-Federal project entity notice of the determination, including an explanation of the reason for the determination.

(b) Review of Non-Federal Feasibility Studies.--

(1) In general.-- In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall--

(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

(2) Revisions.-- If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

(c) Feasibility Factors.-- Feasibility studies authorized or reviewed under this title shall include an assessment of--

(1) near- and long-term water demand in the area to be served by the rural water supply project;

(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

(4) environmental quality and source water protection issues related to the rural water supply project;

(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

(A) nonstructural approaches to reduce the need for the project; and

(B) demonstration technologies;

(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

(8) the availability of guaranteed loans for a proposed rural water supply project;

(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project that includes a schedule identifying the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the project;

(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

(12) the extent to which assistance for rural water supply is available under other Federal authorities;

(13) the engineering, environmental, and economic activities to be undertaken to carry out the proposed rural water supply Project;

(14) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

(15) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

(d) Feasibility Study Criteria.--

(1) In general.-- Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection

(c)) under which the feasibility studies shall be assessed for completeness and appropriateness.

(2) Inclusions.-- The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

(e) Feasibility Report.--

(1) In general.-- After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall--

(A) develop a feasibility report that includes--

(i) a recommendation of the Secretary on--

(I) whether the rural water supply project should be authorized for construction; and

(II) the appropriate non-Federal share of construction costs, which shall be--

(aa) at least 25 percent of the total construction costs;

(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

(ii) if the Secretary recommends that the project should be authorized for construction--

(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

(C) make the report publicly available, along with associated study documents; and

(D) publish in the Federal Register a notice of the availability of the results.

(f) Capability-To-Pay.--

(1) In general.-- In evaluating a proposed rural water supply project under this section, the Secretary shall--

(A) consider the financial capability of any non-Federal project entities participation in the rural water supply project to pay 25 percent or more of the capital construction costs of the rural water supply project; and

(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

(2) Factors.-- In determining the financial capability of non-Federal project entities to pay for a rural water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State average, including--

(A) per capita income;

(B) median household income;
(C) the poverty rate;
(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;
(E) the strength of the balance sheet of the non-Federal project entity; and
(F) the existing cost of water in the region.

(3) Indian tribes.--In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay--

(A) the costs allocated to the beneficiaries; or
(B) an appropriate portion of the costs.

(g) Cost-Sharing Requirement.--

(1) In general.-- Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

(2) Form.-- The Non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

(3) Financial hardship.-- The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

(4) Larger communities.-- In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the non-Federal project entity to pay more than 50 percent of the costs of the study.

(h) Consultation and Cooperation.-- In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this title.

**Sec. 107. [Miscellaneous.]**

(a) Authority of Secretary.-- The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this title.

(b) Transfer of Projects.-- Nothing in this title authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

(c) Federal Reclamation Law.-- Nothing in this title supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

(d) Interagency Coordination.-- The Secretary shall coordinate the Program carried out under this title with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

(e) Multiple Indian Tribes.--In any case in which a contract is entered into with, or a grant is made, to an organization to perform services benefitting more than 1 Indian tribe under this title, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

(f) Ownership of Facilities.-- Title to any facility planned, designed, and recommended for construction under this title shall be held by the non-Federal project entity.
(g) Expedited Procedures.-- If the Secretary determines that a community to be served by a proposed rural water supply project has urgent and compelling water needs, the Secretary shall, to the maximum extent practicable, expedite appraisal investigations and reports conducted under section 105 and feasibility studies and reports conducted under section 106.
(h) Effect on State Water Law.--

(1) In general.-- Nothing in this title preempts or affects State water law or an interstate compact governing water.
(2) Compliance required.-- The Secretary shall comply with State water laws in carrying out this title.

(i) No Additional Requirements.-- Nothing in this title requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before the date of enactment of this Act.
**Sec. 108. [Reports.]--** Beginning in fiscal year 2007, and each fiscal year thereafter through fiscal year 2012, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report that describes the number and type of full-time equivalent positions in the Department of the Interior and the amount of overhead costs of the Department of the Interior that are allocated to carrying out this title for the applicable fiscal year.
**Sec. 109. [Authorization of Appropriations.]**
(a) In General.-- There is authorized to be appropriated to carry out this title $15,000,000 for each of fiscal years 2007 through 2016, to remain available until expended.
(b) Rural Water Programs Assessment.-- Of the amounts made available under subsection (a), not more than $1,000,000 may be made available to carry out section 104 for each of fiscal years 2007 and 2008.
(c) Construction Costs.-- No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.
**Sec. 110. [Termination of Authority.]--** The authority of the Secretary to carry out this title terminates on September 30, 2016.
**TITLE II--TWENTY-FIRST CENTURY WATER WORKS ACT**
**Sec. 201. [Short Title.]** This title may be cited as the “Twenty-First Century Water Works Act”.
**Sec. 202. [Definitions.]--** In this title:
(1) Indian tribe.--The term “Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
(2) Lender.--The term “lender" means--

(A) a non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)); or
(B) a clean renewable energy bond lender (as defined in section 54(j)(2) of the Internal Revenue Code of 1986 (as in effect on the date of enactment of this Act)).

(3) Loan guarantee.-- The term “loan guarantee" has the meaning given the term “loan guarantee" in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).
(4) Non-federal borrower.--The term “non-Federal borrower" means--

(A) a State (including a department, agency, or political subdivision of a State); or
(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(5) Obligation.--The term “obligation" means a loan or other debt obligation that is guaranteed under this section.

(6) Project.--The term “project" means--

(A) a rural water supply project (as defined in section 102(9));

(B) an extraordinary operation and maintenance activity for, or the rehabilitation or replacement of, a facility--

(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law; or

(C) an improvement to water infrastructure directly associated with a reclamation project that, based on a determination of the Secretary—

(i) improves water management; and

(ii) fulfills other Federal goals.

(7) Secretary.-- The term “Secretary" means the Secretary of the Interior.

**Sec. 203. [Project Eligibility.]**

(a) Eligibility Criteria.—

(1) In general.-- The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 204.

(2) Inclusions.-- Eligibility criteria shall include--

(A) submission of an application by the lender to the Secretary;

(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

(E) such other criteria as the Secretary determines to be appropriate.

(b) Waiver.-- The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

(c) Projects Previously Authorized.-- A project that was authorized for construction under Federal reclamation laws prior to the date of enactment of this Act shall be eligible for assistance under this title, subject to the criteria established by the Secretary under subsection (a).

(d) Criteria for Rural Water Supply Projects.-- A rural water supply project that is determined to be feasible under section 106 is eligible for a loan guarantee under section 204.

**Sec. 204. [Loan Guarantees.]**

(a) Authority.-- Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 203 loan guarantees to supplement private-sector or lender financing for the project.

(b) Terms and Limitations.—

(1) In general.-- Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

(2) Amount.-- Loan guarantees by the Secretary shall not exceed an amount equal to 90 percent of the cost of the project that is the subject of the loan guarantee, as estimated at the time at which the loan guarantee is issued.

(3) Interest rate.-- An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines to be appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(4) Amortization.-- A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

(5) Nonsubordination.-- An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(c) Prepayment and Refinancing.-- Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

**Sec. 205. [Defaults.]**

(a) Payments by Secretary.--

(1) In general.-- If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(2) Payment required.-- By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.

(3) Forbearance.-- Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the non-Federal borrower that may be agreed on by the parties to the obligation and approved by the Secretary.

(b) Subrogation.—

(1) In general.-- If the Secretary makes a payment under subsection (a), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the loan guarantee or related agreements, including, as appropriate, the authority (notwithstanding any other provision of law) to--

(A) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to the loan guarantee or related agreements; or

(B) permit the non-Federal borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines the purposes to be in the public interest.

(2) Superiority of rights.-- The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreement, shall be superior to the rights of any other person with respect to the property.

(c) Payment of Principal and Interest by Secretary.--With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the non-Federal borrower, from funds appropriated for that purpose, the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that--

(1)(A) the non-Federal borrower is unable to meet the payments and is not in default;

(B) it is in the public interest to permit the non-Federal borrower to continue to pursue the purposes of the project; and

(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the non-Federal borrower is obligated to pay under the agreement being guaranteed; and

(3) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(d) Action by Attorney General.--

(1) Notification.-- If the non-Federal borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(2) Recovery.-- On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from--

(A) such assets of the defaulting non-Federal borrower as are associated with the obligation; or

(B) any other security pledged to secure the obligation.

**Sec 206. [Operations, Maintenance, and Replacement Costs.]**

(a) In General.-- The Non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this title shall be 100 percent.

(b) Plan.-- On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

**Sec. 207. [Title to Newly Constructed Facilities.]**

(a) New Projects and Facilities.--All new projects or facilities constructed in accordance with this title shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

(b) Existing Projects and Facilities.--Nothing in this title affects the title of--

(1) reclamation projects authorized prior to the date of enactment of this Act;

(2) works supplemental to existing reclamation projects; or

(3) works constructed to rehabilitate existing reclamation projects.

**Sec. 208. [Water Rights.]**

(a) In General.-- Nothing in this title preempts or affects State water law or an interstate compact governing water.

(b) Compliance Required.-- The Secretary shall comply with State water laws in carrying out this title. Nothing in this title affects or preempts State water law or an interstate compact governing water.

**Sec. 209. [Interagency Coordination and Cooperation.]**
(a) Consultation.-- The Secretary shall consult with the Secretary of Agriculture before promulgating criteria with respect to financial appraisal functions and loan guarantee administration for activities carried out under this title.
(b) Memorandum of Agreement.-- The Secretary and the Secretary of Agriculture shall enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this title.
**Sec. 210. [Records; Audits.]**
(a) In General.-- A recipient of a loan guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.
(b) Access.-- The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.
**Sec. 211. [Full Faith and Credit.]--** The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.
**Sec. 212. [Report.]--** Not later than 1 year after the date on which the eligibility criteria are published in the Federal Register under section 203(a), and every 2 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the implementation of the loan guarantee program under section 204.
**Sec. 213. [Effect on the Reclamation Laws.]**
(a) Reclamation Projects.--Nothing in this title supersedes or amends any Federal law associated with a project, or a portion of a project, constructed under the reclamation laws.
(b) No New or Supplemental Benefits.--Any assistance provided under this title shall not--
(1) be considered to be a new or supplemental benefit for purposes of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.); or
(2) affect any contract in existence on the date of enactment of this Act that is executed under the reclamation laws.
**Sec. 214. [Authorization of Appropriations.]--** There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.
**Sec. 215. [Termination of Authority.]**
(a) In General.--Subject to subsection (b), the authority of the Secretary to carry out this title terminates on the date that is 10 years after the date of enactment of this Act.
(b) Exception.--The termination of authority under subsection (a) shall have no effect on--
(1) any loans guaranteed by the United States under this title; or
(2) the administration of any loan guaranteed under this title before the effective date of the termination of authority.
**TITLE III--REPORT ON TRANSFER OF RECLAMATION FACILITIES**
**Sec. 301. [Report.]**
(a) In General.-- Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes any impediments and activities that significantly delay the ability of the Secretary to complete timely transfers of title to reclamation facilities to qualified non-Federal entities under laws authorizing the transfers.

(b) Consultation.-- In preparing the report under subsection (a), the Secretary shall consult with any appropriate non-Federal parties, including reclamation water and power customers.

Approved December 22, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 895:
Senate Report: No. 109-148, Comm. on Energy and Natural Resources, Oct. 19, 2005.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate; Senate Bill, Nov. 15, 2005.
CONGRESSIONAL RECORD: Vol. 151 (2005):
Nov. 16, considered and passed Senate, Pg. 13045.
CONGRESSIONAL RECORD: Vol. 152 (2006):
Dec. 6, considered and passed House, amended, Pg. H8846.
Dec. 8, Senate concurred in House amendment, Pg. S11831.

December 22, 2006

## BLUNT RESERVOIR AND PIERRE CANAL LAND CONVEYANCE ACT OF 2006

An act to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes. (An act of December 22, 2006, Public Law 109-458, 120 Stat. 3394)

**[Section 1. Short Title.]--** This Act may be cited as the "Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006".

**Sec. 2. [Blunt Reservoir and Pierre Canel.]**

(a) Definitions.-- In this section:

(1) Blunt reservoir feature.-- The term "Blunt Reservoir feature" means the Blunt Reservoir feature of the Oahe Unit, James Division, authorized by the Act of August 3, 1968 (82 Stat. 624), as part of the Pick-Sloan Missouri River Basin program.

(2) Commission.-- The term "Commission" means the Commission of Schools and Public Lands of the State.

(3) Nonpreferential lease parcel.-- The term "nonpreferential lease parcel" means a parcel of land that--

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) was considered to be a nonpreferential lease parcel by the Secretary as of January 1, 2001, and is reflected as such on the roster of leases of the Bureau of Reclamation for 2001.

(4) Pierre canal feature.-- The term "Pierre Canal feature" means the Pierre Canal feature of the Oahe Unit, James Division, authorized by the Act of August 3, 1968 (82 Stat. 624), as part of the Pick-Sloan Missouri River Basin program.

(5) Preferential leaseholder.-- The term "preferential leaseholder" means a person or descendant of a person that held a lease on a preferential lease parcel as of January 1, 2001, and is reflected as such on the roster of leases of the Bureau of Reclamation for 2001.

(6) Preferential lease parcel.-- The term "preferential lease parcel" means a parcel of land that--

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) was considered to be a preferential lease parcel by the Secretary as of January 1, 2001, and is reflected as such on the roster of leases of the Bureau of Reclamation for 2001.

(7) Secretary.-- The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) State.-- The term "State" means the State of South Dakota, including a successor in interest of the State.

(9) Unleased parcel.-- The term "unleased parcel" means a parcel of land that--

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is not under lease as of the date of enactment of this Act.

(b) Deauthorization.-- The Blunt Reservoir feature is deauthorized.
(c) Acceptance of Land and Obligations.--
(1) In general.-- As a term of each conveyance under subsections (d)(5) and (e), respectively, the State may agree to accept--
(A) in “as is" condition, the portions of the Blunt Reservoir feature and the Pierre Canal feature that pass into State ownership;
(B) any liability accruing after the date of conveyance as a result of the ownership, operation, or maintenance of the features referred to in subparagraph (A), including liability associated with certain outstanding obligations associated with expired easements, or any other right granted in, on, over, or across either feature; and
(C) the responsibility that the Commission will act as the agent for the Secretary in administering the purchase option extended to preferential leaseholders under subsection (d).
(2) Responsibilities of the state.-- An outstanding obligation described in paragraph (1)(B) shall inure to the benefit of, and be binding upon, the State.
(3) Oil, gas, mineral and other outstanding rights.-- A conveyance to the State under subsection (d)(5) or (e) or a sale to a preferential leaseholder under subsection (d) shall be made subject to--
(A) oil, gas, and other mineral rights reserved of record, as of the date of enactment of this Act, by or in favor of a third party; and
(B) any permit, license, lease, right-of-use, or right-of-way of record in, on, over, or across a feature referred to in paragraph (1)(A) that is outstanding as to a third party as of the date of enactment of this Act.
(4) Additional conditions of conveyance to state.--A conveyance to the State under subsection (d)(5) or (e) shall be subject to the reservations by the United States and the conditions specified in section 1 of the Act of May 19, 1948 (chapter 310; 62 Stat. 240), as amended (16 U.S.C. 667b), for the transfer of property to State agencies for wildlife conservation purposes.
(d) Purchase Option.--
(1) In general.-- A preferential leaseholder shall have an option to purchase from the Secretary or the Commission, acting as an agent for the Secretary, the preferential lease parcel that is the subject of the lease.
(2) Terms.—
(A) In general.-- Except as provided in subparagraph (B), a preferential leaseholder may elect to purchase a parcel on one of the following terms:
(i) Cash purchase for the amount that is equal to--
(I) the value of the parcel determined under paragraph (4); minus
(II) ten percent of that value.
(ii) Installment purchase, with 10 percent of the value of the parcel determined under paragraph (4) to be paid on the date of purchase and the remainder to be paid over not more than 30 years at 3 percent annual interest.
(B) Value under $10,000.-- If the value of the parcel is under $10,000, the purchase shall be made on a cash basis in accordance with subparagraph (A)(i).
(3) Option exercise period.—
(A) In general.-- A preferential leaseholder shall have until the date that is 5 years after enactment of this Act to exercise the option under paragraph (1). (B)

Continuation of leases.--Until the date specified in subparagraph (A), a preferential leaseholder shall be entitled to continue to lease from the Secretary the parcel leased by the preferential leaseholder under the same terms and conditions as under the lease, as in effect as of the date of enactment of this Act.

(4) Valuation.--

(A) In general.--The value of a preferential lease parcel shall be its fair market value for agricultural purposes determined by an independent appraisal less 25 percent, exclusive of the value of private improvements made by the leaseholders while the land was federally owned before the date of the enactment of this Act, in conformance with the Uniform Appraisal Standards for Federal Land Acquisition.

(B) Fair market value.-- Any dispute over the fair market value of a property under subparagraph (A) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations.

(5) Conveyance to the state.--

(A) In general.-- If a preferential leaseholder fails to purchase a parcel within the period specified in paragraph (3)(A), the Secretary shall offer to convey the parcel to the State of South Dakota Department of Game, Fish, and Parks.

(B) Wildlife habitat mitigation.-- Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(6) Use of proceeds.--Proceeds of sales of land under this Act shall be deposited as miscellaneous funds in the Treasury and such funds shall be made available, subject to appropriations, to the State for the establishment of a trust fund to pay the county taxes on the lands received by the State Department of Game, Fish, and Parks under the bill.

(e) Conveyance of Nonpreferential Lease Parcels and Unleased Parcels.--

(1) Conveyance by secretary to state.--

(A) In general.-- Not later than 1 year after the date of enactment of this Act, the Secretary shall offer to convey to the South Dakota Department of Game, Fish, and Parks the nonpreferential lease parcels and unleased parcels of the Blunt Reservoir and Pierre Canal.

(B) Wildlife habitat mitigation.-- Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(2) Land exchanges for nonpreferential lease parcels and unleased parcels.--

(A) In general.-- With the concurrence of the South Dakota Department of Game, Fish, and Parks, the South Dakota Commission of Schools and Public Lands may allow a person to exchange land that the person owns elsewhere in the State for a nonpreferential lease parcel or unleased parcel at Blunt Reservoir or Pierre Canal, as the case may be.

(B) Priority.-- The right to exchange nonpreferential lease parcels or unleased parcels shall be granted in the following order or priority:

(i) Exchanges with current lessees for nonpreferential lease parcels.

(ii) Exchanges with adjoining and adjacent landowners for unleased parcels and nonpreferential lease parcels not exchanged by current lessees.

(C) Easement for water conveyance structure.-- As a condition of the exchange of land of the Pierre Canal feature under this paragraph, the United States reserves a perpetual easement to the land to allow for the right to design, construct, operate, maintain, repair, and replace a pipeline or other water conveyance structure over, under, across, or through the Pierre Canal feature.

(f) Release from Liability.--

(1) In general.-- Effective on the date of conveyance of any parcel under this Act, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the parcel, except for damages for acts of negligence committed by the United States or by an employee, agent, or contractor of the United States, before the date of conveyance.

(2) No additional liability.-- Nothing in this section adds to any liability that the United States may have under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(g) Requirements Concerning Conveyance of Lease Parcels.--

(1) Interim requirements.-- During the period beginning on the date of enactment of this Act and ending on the date of conveyance of the parcel, the Secretary shall continue to lease each preferential lease parcel or nonpreferential lease parcel to be conveyed under this section under the terms and conditions applicable to the parcel on the date of enactment of this Act.

(2) Provision of parcel descriptions.-- Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Commission, shall provide the State a full legal description of all preferential lease parcels and nonpreferential lease parcels that may be conveyed under this section.

(h) Curation of Archeological Collections.-- The Secretary, in consultation with the State, shall transfer, without cost to the State, all archeological and cultural resource items collected from the Blunt Reservoir feature and Pierre Canal feature to the South Dakota State Historical Society.

(i) Authorization of Appropriations.--There is authorized to be appropriated to carry out this Act $750,000 to reimburse the Secretary for expenses incurred in implementing this Act, and such sums as are necessary to reimburse the Commission and the State Department of Game, Fish, and Parks for expenses incurred implementing this Act, not to exceed 10 percent of the cost of each transaction conducted under this Act.

Approved December 22, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2205 (H.R. 4301):
House Report: No. 109-588 accompanying H.R. 4301, Comm. on Resources, July 20, 2006.
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed Senate, Pg. S11542.
Dec. 8, considered and passed House, Pg. H9252.
BUREAU OF RECLAMATION TESTIMONY:
March 30, 2006 (S. 2205) Senate Comm. on Energy and Natural Resources.

December 22, 2006

# DAM SAFETY ACT OF 2006

An Act to amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes. (An act of December 22, 2006, Public Law 109-460, 120 Stat. 3401)

**[Section 1. Dam Safety.]**

(a) Short Title.-- This section may be cited as the "Dam Safety Act of 2006".

(b) National Dam Inventory.-- Section 6 of the National Dam Safety Program Act (33 U.S.C. 467d) is amended to read as follows:

"SEC. 6. NATIONAL DAM INVENTORY.

"The Secretary of the Army shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include any available information assessing each dam based on inspections completed by either a Federal agency or a State dam safety agency.'.

(c) National Dam Safety Program.--

(1) Duties.-- Section 8(b)(1) of the National Dam Safety Program Act (33 U.S.C. 467f(b)(1)) is amended by striking "and target dates to" and inserting "performance measures, and target dates toward effectively administering this Act in order to".

(2) Assistance for state dam safety programs.-- Section 8(e)(2)(A) of the National Dam Safety Program Act (33 U.S.C. 467f(e)(2)(A)) is amended—

(A) in the matter preceding clause (i), by striking "substantially";

(B) by redesignating clauses (iv) through (x) as clauses (v) through (xi), respectively;

(C) by inserting after clause (iii) the following:

"(iv) the authority to require or perform periodic evaluations of all dams and reservoirs to determine the extent of the threat to human life and property in case of failure;"; and

(D) in clause (vii) (as redesignated by subparagraph (B)), by inserting "install and monitor instrumentation," after "remedial work,".

(d) Authorization of Appropriations.-- Section 13 of the National Dam Safety Program Act (33 U.S.C. 467j) is amended--

(1) in subsection (a)(1), by striking "6,000,000 for each of fiscal years 2003 through 2006" and inserting "$6,500,000 for fiscal year 2007, $7,100,000 for fiscal year 2008, $7,600,000 for fiscal year 2009, $8,300,000 for fiscal year 2010, and $9,200,000 for fiscal year 2011";

(2) in subsection (b), by striking "$500,000 for each fiscal year" and inserting "$650,000 for fiscal year 2007, $700,000 for fiscal year 2008, $750,000 for fiscal year 2009, $800,000 for fiscal year 2010, and $850,000 for fiscal year 2011";

(3) in subsection (c), by striking "$1,500,000 for each of fiscal years 2003 through 2006" and inserting "$1,600,000 for fiscal year 2007, $1,700,000 for fiscal year 2008, $1,800,000 for fiscal year 2009, $1,900,000 for fiscal year 2010, and $2,000,000 for fiscal year 2011";

(4) in subsection (d), by striking “$500,000 for each of fiscal years 2003 through 2006" and inserting “$550,000 for fiscal year 2007, $600,000 for fiscal year 2008, $650,000 for fiscal year 2009, $700,000 for fiscal year 2010, and $750,000 for fiscal year 2011”; and
(5) in subsection (e), by striking “$600,000 for each of fiscal years 2003 through 2006” and inserting “$700,000 for fiscal year 2007, $800,000 for fiscal year 2008, $900,000 for fiscal year 2009, $1,000,000 for fiscal year 2010, and $1,100,000 for fiscal year 2011”.

Approved December 22, 2006.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2735 (H.R. 4981):
Senate Report: No. 109-276, Comm. on Environment and Public Works, July 10, 2006.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate; Senate Bill; June 9, 2006.
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate, Pg. S11382.
Dec. 8, considered and passed House, Pg. H9205.

January 11, 2007

# WATER RESOURCES RESEARCH ACT AMENDMENTS OF 2006

An Act to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under the Water Resources Research Act of 1984. (An act of January 11, 2007, Public Law 109-471, 120 Stat. 3552)

**[Section 1. Short Title.]**-- This Act may be cited as the "Water Resources Research Act Amendments of 2006".

**Sec. 2. [Water Resources Research Act Amendments.]**

(a) Scope of Research; Other Activities; Cooperation and Coordination.-- Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended to read as follows:

"(1) plan, conduct, or otherwise arrange for competent applied and peer reviewed research that fosters--

"(A) improvements in water supply reliability;

"(B) the exploration of new ideas that--

"(i) address water problems; or

"(ii) expand understanding of water and water-related phenomena;

"(C) the entry of new research scientists, engineers, and technicians into water resources fields; and

"(D) the dissemination of research results to water managers and the public.".

(b) Evaluation of Water Resources Research Program.-- Section 104(e) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(e)) is amended--

(1) by striking "5" and inserting "3"; and

(2) by inserting "at producing measured results and applied water supply research" after "effectiveness".

(c) Authorization of Appropriations.-- Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this section, to remain available until expended, $12,000,000 for each of fiscal years 2007 through 2011.".

(d) Additional Appropriations Where Research Focused on Water Problems of Interstate Nature.- Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1) is amended by striking "$3,000,000 for fiscal year 2001, $4,000,000 for each of fiscal years 2002 and 2003, and $6,000,000 for each of fiscal years 2004 and 2005" and inserting the following: "$6,000,000 for each of fiscal years 2007 through 2011".

(e) Coordination.-- Section 104(h)(2) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(h)(2)) is amended--

(1) by striking "(2) Report" and inserting "(2) Reports"; and

(2) by inserting after the first sentence the following: "As part of the annual budget submission to Congress, the Secretary shall also provide a crosscut budget detailing the expenditures on activities listed under subsection (a)(1) and a report which details the level of applied research and the results of the activities authorized by this Act, including potential and actual--

"(A) increases in annual water supplies;
"(B) increases in annual water yields;
"(C) advances in water infrastructure and water quality improvements; and
"(D) methods for identifying, and determining the effectiveness of, treatment Ex

(f) Administrative Costs.-- Section 107 of the Water Resources Research Act of 1984 (42 U.S.C. 10306) is amended by striking "15" and inserting "7.5".

Approved January 11, 2007.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 4588 (S. 1017):
House Report: No. 109-630, Comm. on Resources, Sept. 6, 2006.
Senate Report: No. 109-90 accompanying S. 1017 (Comm. on Environment and Public Works).
CONGRESSIONAL BUDGET OFFICE: Cost Estimate; House Bill, July 26, 2006.
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House, Pg. H6939.
Dec. 6, considered and passed Senate, amended, Pg. S11381.
Dec. 8, House concurred in Senate amendments, Pg. H9253.

November 8, 2007

# WATER RESOURCES DEVELOPMENT ACT OF 2007

[Extracts from] An Act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. (An act of November 8, 2007, Public Law 110-114, 121 Stat. 1041)

**[Section 1. Short Title; Table of Contents.]**-- (a) Short Title.--This Act may be cited as the "Water Resources Development Act of 2007".

* * * * *

**Sec. 2. [Definition of Secretary.]**-- In this Act, the term "Secretary" means the Secretary of the Army.

## TITLE I--WATER RESOURCES PROJECTS

**Sec. 1001. [Project Authorizations.]** Except as otherwise provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) **Haines, Alaska**.--The project for navigation, Haines, Alaska: Report of the Chief of Engineers dated December 20, 2004, at a total cost of $14,040,000, with an estimated Federal cost of $11,232,000 and an estimated non-Federal cost of $2,808,000.

(2) **Port Lions, Alaska**.--The project for navigation, Port Lions, Alaska: Report of the Chief of Engineers dated June 14, 2006, at a total cost of $9,530,000, with an estimated Federal cost of $7,624,000 and an estimated non-Federal cost of $1,906,000.

(3) **Santa Cruz River, Paseo De Las Iglesias, Arizona.—**The project for environmental restoration, Santa Cruz River, Pima County, Arizona: Report of the Chief of Engineers dated March 28, 2006, at a total cost of $97,700,000, with an estimated Federal cost of $63,300,000 and an estimated non-Federal cost of $34,400,000.

(4) **Tanque Verde Creek, Pima County, Arizona**.--The project for environmental restoration, Tanque Verde Creek, Pima County, Arizona: Report of the Chief of Engineers dated July 22, 2003, at a total cost of $5,906,000, with an estimated Federal cost of $3,836,000 and an estimated non-Federal cost of $2,070,000.

(5) **Salt River (Rio Salado Oeste), Maricopa County, Arizona.--**The project for environmental restoration, Salt River (Rio Salado Oeste), Maricopa County, Arizona: Report of the Chief of Engineers dated December 19, 2006, at a total cost of $166,650,000, with an estimated Federal cost of $106,629,000 and an estimated non-Federal cost of $60,021,000.

(6) **Salt River (va shly'ay akimel), Maricopa County, Arizona**.--

(A) In general.--The project for environmental restoration, Salt River (Va Shly'ay Akimel), Arizona: Report of the Chief of Engineers dated January 3, 2005, at a total cost of $162,100,000, with an estimated Federal cost of $105,200,000 and an estimated non-Federal cost of $56,900,000.

(B) Coordination with federal reclamation projects.--The Secretary, to the maximum extent practicable, shall coordinate the design and construction of the project described in subparagraph (A) with the Bureau of Reclamation and any operating agent for any Federal reclamation project in the Salt River Basin to avoid impacts to existing Federal reclamation facilities and operations in the Salt River Basin.

* * * * *

(8) **Hamilton City, Glenn County, California**.--The project for flood damage reduction and environmental restoration, Hamilton City, Glenn County, California: Report of the Chief of Engineers dated December 22, 2004, at a total cost of $52,400,000, with an estimated Federal cost of $34,100,000 and estimated non-Federal cost of $18,300,000.

(9) **Silver Strand Shoreline, Imperial Beach, California**.-- The project for storm damage reduction, Silver Strand Shoreline, Imperial Beach, California: Report of the Chief of Engineers dated December 30, 2003, at a total cost of $13,700,000, with an estimated Federal cost of $8,521,000 and an estimated non-Federal cost of $5,179,000, and at an estimated total cost of $42,500,000 for periodic beach nourishment over the 50-year life of the project, with an estimated Federal cost of $21,250,000 and an estimated non-Federal cost of $21,250,000.

(10) **Matilija Dam, Ventura County, California**.--The project for environmental restoration, Matilija Dam, Ventura County, California: Report of the Chief of Engineers dated December 20, 2004, at a total cost of $144,500,000, with an estimated Federal cost of $89,700,000 and an estimated non-Federal cost of $54,800,000.

(11) **Middle Creek, Lake County, California**.--The project for flood damage reduction and environmental restoration, Middle Creek, Lake County, California: Report of the Chief of Engineers dated November 29, 2004, at a total cost of $45,200,000, with an estimated Federal cost of $29,500,000 and an estimated non-Federal cost of $15,700,000.

(12) **Napa River Salt Marsh Restoration, California.--**

(A) In general.--The project for environmental restoration, Napa River Salt Marsh Restoration, Napa, California: Report of the Chief of Engineers dated December 22, 2004, at a total cost of $134,500,000, with an estimated Federal cost of $87,500,000 and an estimated non-Federal cost of $47,000,000.

(B) Administration.--In carrying out the project authorized by this paragraph, the Secretary shall--

(i) construct a recycled water pipeline extending from the Sonoma Valley County Sanitation District Waste Water Treatment Plant and the Napa Sanitation District Waste Water Treatment Plant to the project; and

(ii) restore or enhance Salt Ponds 1, 1A, 2, and 3.

(13) **Denver County Reach, South Platte River, Denver, Colorado**.--The project for environmental restoration, Denver County Reach, South Platte River, Denver, Colorado: Report of the Chief of Engineers dated May 16, 2003, at a total cost of $20,100,000, with an estimated Federal cost of $13,065,000 and an estimated non-Federal cost of $7,035,000.

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(35) **Southwest Valley, Bernalillo County, New Mexico**.--The project for flood damage reduction, Southwest Valley, Bernalillo County, New Mexico: Report of the Chief of Engineers dated November 29, 2004, at a total cost of $24,840,000, with an estimated Federal cost of $16,150,000 and an estimated non-Federal cost of $8,690,000.

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(40) **Corpus Christi ship channel, Corpus Christi, Texas**.—

(A) In general.--The project for navigation and ecosystem restoration, Corpus Christi Ship Channel, Texas: Report of the Chief of Engineers dated June 2, 2003, at a total cost of $188,110,000, with an estimated Federal cost of $87,810,000 and an estimated non-Federal cost of $100,300,000.

(B) Navigational servitude.--In carrying out the project under subparagrapch (A), the Secretary shall enforce the navigational servitude in the Corpus Christi Ship Channel

(including the removal or relocation of any facility obstructing the project) consistent with the cost sharing requirements of section 101 of the Water Resources Development Act of 1992 (33 U.S.C. 2211).

(41) **Gulf Intracoastal Waterway, Brazos River to Port O'connor, Matagorda Bay Re-Route, Texas**.--The project for navigation, Gulf Intracoastal Waterway, Brazos River to Port O'Connor, Matagorda Bay Re-Route, Texas: Report of the Chief of Engineers dated December 24, 2002, at a total cost of $17,280,000. The costs of construction of the project are to be paid \1/2\ from amounts appropriated from the general fund of the Treasury and \1/2\ from amounts appropriated from the Inland Waterways Trust Fund.

(42) **Gulf Intracoastal Waterway, High Island to Brazos River, Texas.**--The project for navigation, Gulf Intracoastal Waterway, High Island to Brazos River, Texas: Report of the Chief of Engineers dated April 16, 2004, at a total cost of $14,450,000. The costs of construction of the project are to be paid \1/2\ from amounts appropriated from the general fund of the Treasury and \1/2\ from amounts appropriated from the Inland Waterways Trust Fund.

(43) **Lower Colorado River Basin Phase I, Texas.**--The project for flood damage reduction and ecosystem restoration, Lower Colorado River Basin Phase I, Texas: Report of the Chief of Engineers dated December 31, 2006, at a total cost of $110,730,000, with an estimated Federal cost of $69,640,000 and an estimated non-Federal cost of $41,090,000.

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(46) **Centralia, Chehalis River, Lewis County, Washington.**--

(A) In general.--The project for flood damage reduction, Centralia, Chehalis River, Lewis County, Washington: Report of the Chief of Engineers dated September 27, 2004, at a total cost of $123,770,000, with an estimated Federal cost of $74,740,000 and an estimated non-Federal cost of $49,030,000.

(B) Credit.--The Secretary shall--

(i) credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project up to $6,500,000 for the cost of planning and design work carried out by the non-Federal interest in accordance with the project study plan dated November 28, 1999; and

(ii) credit toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

**Sec. 1002. [Small Projects for Flood Damage Reduction.]**

(a) In General.--The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

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(3) **Fort Yukon, Alaska.**--Project for flood damage reduction, Fort Yukon, Alaska.

(4) **Little Colorado River Levee, Arizona**.--Project for flood damage reduction, Little Colorado River Levee, Arizona.

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(6) **Barrel Springs Wash, Palmdale, California**.--Project for flood damage reduction, Barrel Springs Wash, Palmdale, California.

(7) **Borrego Springs, California**.--Project for flood damage reduction, Borrego Springs, California.

(8) **Colton, California**.--Project for flood damage reduction, Colton, California.
(9) **Dunlap Stream, Yucaipa, California**.--Project for flood damage reduction, Dunlap Stream, Yucaipa, California.
(10) **Hunts Canyon Wash, Palmdale, California**.--Project for flood damage reduction, Hunts Canyon Wash, Palmdale, California.
(11) **Ontario and Chino, California**.--Project for flood damage reduction, Ontario and Chino, California.
(12) **Santa Yenetia, California**.--Project for flood damage reduction, Santa Venetia, California.
(13) Whittier, California.--Project for flood damage reduction, Whittier, California.
(14) **Wildwood Creek, Yucaipa, California**.--Project for flood damage reduction, Wildwood Creek, Yucaipa, California.

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(38) **Congelosi Ditch, Missouri City, Texas**.--Project for flood damage reduction, Congelosi Ditch, Missouri City, Texas.
(39) **Dilley, Texas.--**Project for flood damage reduction, Dilley, Texas.
(40) **Cheyenne, Wyoming**.--Project for flood damage reduction, Cheyenne, Wyoming.
(b) Special Rules.--

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(2) **Ontario and Chino, California**.--The Secretary shall carry out the project for flood damage reduction, Ontario and Chino, California, referred to in subsection (a)(11) if the Secretary determines that the project is feasible.
(3) **Santa Yenetia, California**.--The Secretary shall carry out the project for flood damage reduction, Santa Venetia, California, referred to in subsection (a)(12) if the Secretary determines that the project is feasible and shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184) to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.
(4) **Whittier, California.--**The Secretary shall carry out the project for flood damage reduction, Whittier, California, referred to in subsection (a)(13) if the Secretary determines that the project is feasible.
(5) **Wildwood Creek, Yucaipa, California.--** The Secretary shall review the locally prepared plan for the project for flood damage, Wildwood Creek, California, referred to in subsection (a)(14) and, if the Secretary determines that the plan meets the evaluation and design standards of the Corps of Engineers and that the plan is feasible, the Secretary may use the plan to carry out the project and shall provide credit toward the non-Federal share of the cost of the project for the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

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(10) **Dilley, Texas.--**The Secretary shall carry out the project for flood damage reduction, Dilley, Texas, referred to in subsection (a)(39) if the Secretary determines that the project is feasible.

**Sec. 1003. [Small Projects for Emergency Streambank Protection.]** The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) **Aliso Creek, California**.--Projects for emergency streambank protection, Aliso Creek, California.

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(17) **Johnson Creek, Arlington, Texas**.--Project for emergency streambank protection, Johnson Creek, Arlington, Texas.

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**Sec. 1004. [Small Projects for Navigation.]**

(a) In General.--The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) **Barrow Harbor, Alaska**.--Project for navigation, Barrow Harbor, Alaska.
(2) **Coffman Cove, Alaska**.--Project for navigation, Coffman Cove, Alaska.
(3) **Kotzebue Garbor, Alaska**.--Project for navigation, Kotzebue Harbor, Alaska.
(4) **Nome Harbor, Alaska**.--Project for navigation, Nome Harbor, Alaska.
(5) **Old Karbor, Alaska**.--Project for navigation, Old Harbor, Alaska.

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**Sec. 1005. [Small Projects for Improvement of the Quality of the Environment.]**

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 1135 of the Water Resources Development Act of 1992 (33 U.S.C. 2309a):

(1) **Ballona Creek, Los Angeles County, California**.--Project for improvement of the quality of the environment, Ballona Creek, Los Angeles County, California.
(2) **Ballona Lagoon Tide Gates, Marina Del Rey, California.--** Project for improvement of the quality of the environment, Ballona Lagoon Tide Gates, Marina Del Rey, California.

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**Sec. 1006. [Small Projects for Aquatic Ecosystem Restoration.]**

(a) In General.--The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330):

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(2) **Black Lake, Alaska**.--Project for aquatic ecosystem restoration, Black Lake, Alaska, at the head of the Chignik watershed.
(3) **Ben Lomond Dam, Santa Cuz, California**.--Project for aquatic ecosystem restoration, Ben Lomond Dam, Santa Cruz, California.
(4) **Dockweiler Bluffs, Los Angeles County, California.--** Project for aquatic ecosystem restoration, Dockweiler Bluffs, Los Angeles County, California.
(5) **Salt River, California**.--Project for aquatic ecosystem restoration, Salt River, California.
(6) **San Diego River, California**.--Project for aquatic ecosystem restoration, San Diego River, California, including efforts to address aquatic nuisance species.

(7) **Santa Rosa Creek, Santa Rosa, California.**--Project for aquatic ecosystem restoration, Santa Rosa Creek in the vicinity of the Prince Memorial Greenway, Santa Rosa, California.
(8) **Stockton Deep Water Ship Channel and Lower San Juaquin River, California**.--Project for aquatic ecosystem restoration, Stockton Deep Water Ship Channel and lower San Joaquin River, California.
(9) **Suisun Marsh, San Pablo Bay, California**.--Project for aquatic ecosystem restoration, Suisun Marsh, San Pablo Bay, California.
(10) **Sweetwater Reservoir, San Diego County, California**.-- Project for aquatic ecosystem restoration, Sweetwater Reservoir, San Diego County, California, including efforts to address aquatic nuisance species.

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(26) **Mobley Dam, Tongue River, Montana.**--Project for aquatic ecosystem restoration, Mobley Dam, Tongue River, Montana.
(27) **S and H Dam, Tongue River, Montana**.--Project for aquatic ecosystem restoration, S and H Dam, Tongue River, Montana.
(28) **Vandalia Dam, Milk River, Montana**.--Project for aquatic ecosystem restoration, Vandalia Dam, Milk River, Montana.
(29) **Truckee River, Reno, Nevada**.--Project for aquatic ecosystem restoration, Truckee River, Reno, Nevada, including features for fish passage in Washoe County.

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(34) **Johnson Creek, Gresham, Oregon**.--Project for aquatic ecosystem restoration, Johnson Creek, Gresham, Oregon.

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(b) Special Rules.--
(1) **Black Lake, Alaska**.--The Secretary shall carry out the project for aquatic ecosystem restoration, Black Lake, Alaska referred to in subsection (a)(2) if the Secretary determines that the project is appropriate.
(2) **Truckee River, Reno, Nevada**.--The maximum amount of Federal funds that may be expended for the project for aquatic ecosystem restoration, Truckee River, Reno, Nevada, referred to in subsection (a)(29) shall be $6,000,000 and the Secretary shall carry out the project if the Secretary determines that the project is appropriate.

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**Sec. 1007. [Small Projects for Shoreline Protection.]** The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426(g):

(1) **Nelson Lagoon, Alaska**.--Project for shoreline protection, Nelson Lagoon, Alaska.
(2) **Nicholas Canyon, Los Angeles, California**.--Project for shoreline protection, Nicholas Canyon, Los Angeles, California.

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(8) **Port Aransas, Texas.**--Project for shoreline protection, Port Aransas, Texas.

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**Sec. 1010. [Small Projects for Aquatic Plant Control.]**

(a) In General.--The Secretary is authorized to carry out a project for aquatic nuisance plant control in the Republican River Basin, Nebraska, under section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610).

(b) Special Rule.--In carrying out the project under subsection (a), the Secretary may control and eradicate riverine nuisance plants.

**TITLE II--GENERAL PROVISIONS**

**Sec. 2001. [Non-Federal Contributions.]** Section 103 of the Water Resources Development Act of 1992 (33 U.S.C. 2213) is amended by adding at the end the following:

"(n) Non-Federal Contributions.--

"(1) Prohibition on solicitation of excess contributions.-- The Secretary may not--

"(n) Non-Federal Contributions.--

"(1) Prohibition on solicitation of excess contributions.-- The Secretary may not--

"(A) solicit contributions from non-Federal interests for costs of constructing authorized water resources projects or measures in excess of the non-Federal share assigned to the appropriate project purposes listed in subsections (a), (b), and (c); or

"(B) condition Federal participation in such projects or measures on the receipt of such contributions.

"(2) Limitation on statutory construction.--Nothing in this subsection shall be construed to affect the Secretary's authority under section 903(c).".

**Sec. 2002. [Funding to Process Permits.]**-- Section 214(c) of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note; 114 Stat. 2594; 119 Stat. 2169; 120 Stat. 318; 120 Stat. 3197) is amended by striking "2008" and inserting "2009".

**Sec. 2003. [Written Agreement for Water Resources Projects.]**

(a) In General.--Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5(b)), is amended--

(1) by striking "sec. 221." and inserting the following:

`SEC. 221. WRITTEN AGREEMENT REQUIREMENT FOR WATER RESOURCES PROJECTS.";

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

"(a) Cooperation of Non-Federal Interest.--

"(1) In general.--After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under any provision of law, shall not be commenced until each non-Federal interest has entered into a written partnership agreement with the Secretary (or, where appropriate, the district engineer for the district in which the project will be carried out) under which each party agrees to carry out its responsibilities and requirements for implementation or construction of the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000.

``(2) Liquidated damages.--A partnership agreement described in paragraph (1) may include a provision for liquidated damages in the event of a failure of one or more parties to perform.

"(3) Obligation of future appropriations.--In any partnership agreement described in paragraph (1) and entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State.

"(4) Credit for in-kind contributions.--

"(A) In general.--A partnership agreement described in paragraph (1) may provide with respect to a project that the Secretary shall credit toward the non-Federal share of the cost of the project, including a project implemented without specific authorization in law, the value of in-kind contributions made by the non-Federal interest, including--

"(i) the costs of planning (including data collection), design, management, mitigation, construction, and construction services that are provided by the non-Federal interest for implementation of the project;

"(ii) the value of materials or services provided before execution of the partnership agreement, including efforts on constructed elements incorporated into the project; and

"(iii) the value of materials and services provided after execution of the partnership agreement.

"(B) Condition.--The Secretary may credit an in-kind contribution under subparagraph (A) only if the Secretary determines that the material or service provided as an in-kind contribution is integral to the project.

"(C) Work performed before partnership agreement.-- In any case in which the non-Federal interest is to receive credit under subparagraph (A)(ii) for the cost of work carried out by the non-Federal interest and such work has not been carried out as of the date of enactment of this subparagraph, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.

"(D) Limitations.--Credit authorized under this paragraph for a project--

"(i) shall not exceed the non-Federal share of the cost of the project;

"(ii) shall not alter any other requirement that a non-Federal interest provide lands, easements, relocations, rights-of-way, or areas for disposal of dredged material for the project;

"(iii) shall not alter any requirement that a non-Federal interest pay a portion of the costs of construction of the project under sections 101 and 103 of the Water Resources Development Act of 1992 (33 U.S.C. 2211; 33 U.S.C. 2213); and

"(iv) shall not exceed the actual and reasonable costs of the materials, services, or other things provided by the non-Federal interest, as determined by the Secretary.

"(E) Applicability.--

"(i) In general.--This paragraph shall apply to water resources projects authorized after November 16, 1986, including projects initiated after November 16, 1986, without specific authorization in law.

"(ii) Limitation.--In any case in which a specific provision of law provides for a non-Federal interest to receive credit toward the non-Federal share of the cost of a study for, or construction or operation and maintenance of, a water resources project, the specific provision of law shall apply instead of this paragraph.".

(b) Non-Federal Interest.--Section 221(b) of such Act is amended to read as follows:

"(b) Definition of Non-Federal Interest.--The term `non-Federal interest' means--

"(1) a legally constituted public body (including a federally recognized Indian tribe); or

"(2) a nonprofit entity with the consent of the affected local government, that has full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.".

(c) Program Administration.--Section 221 of such Act is further amended--

(1) by redesignating subsection (e) as subsection (h); and

(2) by inserting after subsection (d) the following:

"(e) Delegation of Authority.-- Not later than June 30, 2008, the Secretary shall issue policies and guidelines for partnership agreements that delegate to the district engineers, at a minimum--

"(1) the authority to approve any policy in a partnership agreement that has appeared in an agreement previously approved by the Secretary;

"(2) the authority to approve any policy in a partnership agreement the specific terms of which are dictated by law or by a final feasibility study, final environmental impact statement, or other final decision document for a water resources project;

"(3) the authority to approve any partnership agreement that complies with the policies and guidelines issued by the Secretary; and

"(4) the authority to sign any partnership agreement for any water resources project unless, within 30 days of the date of authorization of the project, the Secretary notifies the district engineer in which the project will be carried out that the Secretary wishes to retain the prerogative to sign the partnership agreement for that project.

"(f) Report to Congress.--Not later than 2 years after the date of enactment of this subsection, and every year thereafter, the Secretary shall submit to Congress a report detailing the following:

"(1) The number of partnership agreements signed by district engineers and the number of partnership agreements signed by the Secretary.

"(2) For any partnership agreement signed by the Secretary, an explanation of why delegation to the district engineer was not appropriate.

"(g) Public Availability.--Not later than 120 days after the date of enactment of this subsection, the Chief of Engineers shall--

"(1) ensure that each district engineer has made available to the public, including on the Internet, all partnership agreements entered into under this section within the preceding 10 years and all partnership agreements for water resources projects currently being carried out in that district; and

"(2) make each partnership agreement entered into after such date of enactment available to the public, including on the Internet, not later than 7 days after the date on which such agreement is entered into.".

(d) Local Cooperation.--Section 912(b) of the Water Resources Development Act of 1992 (101 Stat. 4190) is amended—

(1) in paragraph (2)--

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking the last sentence; and

(2) in paragraph (4)--

(A) by inserting after "injunction, for" the following: "payment of damages or, for";

(B) by striking "to collect a civil penalty imposed under this section,"; and

(C) by striking "any civil penalty imposed under this section," and inserting "any damages,".

(e) Applicability.--The amendments made by subsections (a), (b), and (d) only apply to partnership agreements entered into after the date of enactment of this Act; except that, at the request of a non-Federal interest for a project, the district engineer for the district in which the project is located may amend a project partnership agreement entered into on or before such date and under which construction on the project has not been initiated as of such date of enactment for the purpose of incorporating such amendments.

(f) Agreements and References.--

(1) In general.--A goal of agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5(b)), shall be to further partnership and cooperation, and the agreements shall be referred to as "partnership agreements".

(2) References to cooperation agreements.--Any reference in a law, regulation, document, or other paper of the United States to a "cooperation agreement" or "project cooperation agreement" shall be deemed to be a reference to a "partnership agreement" or a "project partnership agreement", respectively.

(3) References to partnership agreements.--Any reference to a "partnership agreement" or "project partnership agreement" in this Act (other than this section) shall be deemed to be a reference to a "cooperation agreement" or a "project cooperation agreement", respectively.

**Sec. 2004. [Compilation of Laws.]**

(a) Compilation of Laws Enacted After November 8, 1966.--The Secretary and the Chief of Engineers shall prepare a compilation of the laws of the United States relating to the improvement of rivers and harbors, flood damage reduction, beach and shoreline erosion, hurricane and storm damage reduction, ecosystem and environmental restoration, and other water resources development enacted after November 8, 1966, and before January 1, 2008, and

have such compilation printed for the use of the Department of the Army, Congress, and the general public.
(b) Reprint of Laws Enacted Before November 8, 1966.--The Secretary shall have the volumes containing the laws referred to in subsection (a) enacted before November 8, 1966, reprinted.
(c) Index.--The Secretary shall include an index in each volume compiled, and each volume reprinted, pursuant to this section.
(d) Congressional Copies.--Not later than April 1, 2008, the Secretary shall transmit at least 25 copies of each volume compiled, and of each volume reprinted, pursuant to this section to each of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.
(e) Availability.—The Secretary shall ensure that each volume compiled, and each volume reprinted, pursuant to this section are available through electronic means, including on the Internet.
**Sec. 2005. [Dredged Material Disposal.]--** Section 217 of the Water Resources Development Act of 1996 (33 U.S.C. 2326a) is amended-
(1) by redesignating subsection (c) as subsection (d);
(2) by inserting after subsection (b) the following: "(c) Dredged Material Facility.--
"(1) In general.--The Secretary may enter into a partnership agreement under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5(b), with one or more non-Federal interests with respect to a water resources project, or group of water resources projects within a geographic region, if appropriate, for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material, which may include effective sediment contaminant reduction technologies) using funds provided in whole or in part by the Federal Government.
"(2) Performance.--One or more of the parties to a partnership agreement under this subsection may perform the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility.
"(3) Multiple projects.--If appropriate, the Secretary may combine portions of separate water resources projects with appropriate combined cost-sharing among the various water resources projects in a partnership agreement for a facility under this subsection if the facility serves to manage dredged material from multiple water resources projects located in the geographic region of the facility.
"(4) Specified federal funding sources and cost sharing.--
"(A) Specified federal funding.--A partnership agreement with respect to a facility under this subsection shall specify--
"(i) the Federal funding sources and combined cost-sharing when applicable to multiple water resources projects; and
"(ii) the responsibilities and risks of each of the parties relating to present and future dredged material managed by the facility.
"(B) Management of sediments.--
"(i) In general.--A partnership agreement under this subsection may include the management of sediments from the maintenance dredging of Federal water resources projects that do not have partnership agreements.

"(ii) Payments.--A partnership agreement under this subsection may allow the non-Federal interest to receive reimbursable payments from the Federal Government for commitments made by the non-Federal interest for disposal or placement capacity at dredged material processing, treatment, contaminant reduction, or disposal facilities.

"(C) Credit.--A partnership agreement under this subsection may allow costs incurred by the non-Federal interest before execution of the partnership agreement to be credited in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5(b).

"(5) Credit.--

"(A) Effect on existing agreements.--Nothing in this subsection supersedes or modifies an agreement in effect on the date of enactment of this paragraph between the Federal Government and any non-Federal interest for the cost-sharing, construction, and operation and maintenance of a water resources project.

"(B) Credit for funds.--Subject to the approval of the Secretary and in accordance with law (including regulations and policies) in effect on the date of enactment of this paragraph, a non-Federal interest for a water resources project may receive credit for funds provided for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility to the extent the facility is used to manage dredged material from the project.

"(C) Non-federal interest responsibilities.--A Non-Federal interest entering into a partnership agreement under this subsection for a facility shall--

"(i) be responsible for providing all necessary lands, easements, relocations, and rights-of-way associated with the facility; and

"(ii) receive credit toward the non-Federal share of the cost of the project with respect to which the agreement is being entered into for those items."; and

(3) in paragraphs (1) and (2)(A) of subsection (d) (as redesignated by paragraph (1))--

(A) by inserting "and maintenance" after "operation" each place it appears; and

(B) by inserting "processing, treatment, contaminant reduction, or" after "dredged material" the first place it appears in each of those paragraphs.

**Sec. 2006. [Remote and Subsistence Harbors.]**

(a) In General.--In conducting a study of harbor and navigation improvements, the Secretary may recommend a project without the need to demonstrate that the project is justified solely by national economic development benefits if the Secretary determines that-

(1)(A) the community to be served by the project is at least 70 miles from the nearest surface accessible commercial port and has no direct rail or highway link to another community served by a surface accessible port or harbor; or

(B) the project would be located in the State of Hawaii, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, or American Samoa;

(2) the harbor is economically critical such that over 80 percent of the goods transported through the harbor would be consumed within the community served by the harbor and navigation improvement; and

(3) the long-term viability of the community would be threatened without the harbor and navigation improvement.

(b) Justification.--In considering whether to recommend a project under subsection (a), the Secretary shall consider the benefits of the project to--

(1) public health and safety of the local community, including access to facilities designed to protect public health and safety;

(2) access to natural resources for subsistence purposes;

(3) local and regional economic opportunities;

(4) welfare of the local population; and

(5) social and cultural value to the community.

**Sec. 2007. [Use of Other Federal Funds.]**-- The non-Federal interest for a water resources study or project may use, and the Secretary shall accept, funds provided by a Federal agency under any other Federal program, to satisfy, in whole or in part, the non-Federal share of the cost of the study or project if the Federal agency that provides the funds determines that the funds are authorized to be used to carry out the study or project.

**Sec. 2008. [Revision of Project Partnership Agreement; Cost Sharing.]**

(a) Federal Allocation.--Upon authorization by law of an increase in the maximum amount of Federal funds that may be allocated for a water resources project or an increase in the total cost of a water resources project authorized to be carried out by the Secretary, the Secretary shall enter into a revised partnership agreement for the project to take into account the change in Federal participation in the project.

(b) Cost Sharing.--An increase in the maximum amount of Federal funds that may be allocated for a water resources project, or an increase in the total cost of a water resources project, authorized to be carried out by the Secretary shall not affect any cost-sharing requirement applicable to the project.

(c) Cost Estimates.--The estimated Federal and non-Federal costs of water resources projects authorized to be carried out by the Secretary before, on, or after the date of enactment of this Act are for informational purposes only and shall not be interpreted as affecting the cost-sharing responsibilities established by law.

**Sec. 2009. [Expedited Actions for Emergency Flood Damage Reduction.]**-- The Secretary shall expedite any authorized planning, design, and construction of any project for flood damage reduction for an area that, within the preceding 5 years, has been subject to flooding that resulted in the loss of life and caused damage of sufficient severity and magnitude to warrant a declaration of a major disaster by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121et seq.).

* * * * *

**Sec. 2011. [Tribal Partnership Program.]**

(a) Program.--Section 203(b) of the Water Resources Development Act of 2000 (33 U.S.C. 2269(b); 114 Stat. 2589) is amended--

(1) in paragraph (1) by inserting “carry out water-related planning activities and" after “the Secretary may";

(2) in paragraph (1)(B) by inserting after “Code" the following: “, and including lands that are within the jurisdictional area of an Oklahoma Indian tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations"; and

(3) in paragraph (2)--

(A) by striking ``and'' at the end of subparagraph (A);
(B) by redesignating subparagraph (B) as subparagraph (C); and
(C) by inserting after subparagraph (A) the following:
``(B) watershed assessments and planning activities; and".

(b) Authorization of Appropriations.--Section 203(e) of such Act is amended by striking “2006" and inserting “2012".

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``(25) **Lake Sakakawea, North Dakota**, removal of silt and aquatic growth and measures to address excessive sedimentation;

* * * * *

**Sec. 2015. [Cooperative Agreements.]**

(a) In General.--For the purpose of expediting the cost-effective design and construction of wetlands restoration that is part of an authorized water resources project, the Secretary may enter into cooperative agreements under section 6305 of title 31, United States Code, with nonprofit organizations with expertise in wetlands restoration to carry out such design and construction on behalf of the Secretary.

(b) Limitations.--

(1) Per project limit.--A cooperative agreement under this section may not obligate the Secretary to pay the nonprofit organization more than $1,000,000 for any single wetlands restoration project.

(2) Annual limit.--The total value of work carried out under cooperative agreements under this section may not exceed $5,000,000 in any fiscal year.

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**Sec. 2017. [Access to Water Resource Data.]**

(a) In General.--The Secretary shall carry out a program to provide public access to water resources and related water quality data in the custody of the Corps of Engineers.

(b) Data.--Public access under subsection (a) shall--

(1) include, at a minimum, access to data generated in water resources project development and regulation under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(2) appropriately employ geographic information system technology and linkages to water resource models and analytical techniques.

(c) Partnerships.--To the maximum extent practicable, in carrying out activities under this section, the Secretary shall develop partnerships, including cooperative agreements, with State, tribal, and local governments and other Federal agencies.

(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $3,000,000 for each fiscal year.

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**Sec. 2019. [Ability to Pay.]**

(a) Criteria and Procedures.--Section 103(m)(2) of the Water Resources Development Act of 1992 (33 U.S.C. 2213(m)(2)) is amended by striking “180 days after such date of enactment" and inserting “December 31, 2007".

(b) Projects.--The Secretary shall apply the criteria and procedures referred to in section 103(m) of the Water Resources Development Act of 1992 (33 U.S.C. 2213(m)) to the following projects:

* * * * *

(2) **Lower Rio Grande Basin, Texas**.--The project for flood control, Lower Rio Grande Basin, Texas, authorized by section 401(a) of the Water Resources Development Act of 1992 (100 Stat. 4125).

* * * * *

**Sec. 2020. [Aquatic Ecosystem and Estuary Restoration.** Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330; 110 Stat. 3679) is amended--

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

"(a) General Authority.--

"(1) In general.--The Secretary may carry out a project to restore and protect an aquatic ecosystem or estuary if the Secretary determines that the project--

"(A)(i) will improve the quality of the environment and is in the public interest; or

"(ii) will improve the elements and features of an estuary (as defined in section 103 of the Estuaries and Clean Waters Act of 2000 (33 U.S.C. 2902)); and

"(B) is cost-effective.

"(2) Dam removal.--A project under this section may include removal of a dam."; and

(2) in subsection (e) by striking "$25,000,000" and inserting "$50,000,000".

**Sec. 2021. [Small Floor Damage Reduction Projects.]--** Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended by striking "$50,000,000" and inserting "$55,000,000".

* * * * *

**Sec. 2024. [Modification of Projects for Improvement of the Quality of the Environment.]-** Section 1135(h) of the Water Resources Development Act of 1992 (33 U.S.C. 2309a(h)) is amended by striking "$25,000,000" and inserting "$40,000,000".

* * * * *

**Sec. 2031. [Water Resources Principles and Guidelines.]**

(a) National Water Resources Planning Policy.--It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by--

(1) seeking to maximize sustainable economic development;

(2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and

(3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

(b) Principles and Guidelines.--

(1) Principles and guidelines defined.--In this subsection, the term "principles and guidelines" means the principles and guidelines contained in the document prepared by the Water Resources Council pursuant to section 103 of the Water Resources Planning Act (42 U.S.C. 1962a-2), entitled "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies", and dated March 10, 1983.

(2) In general.--Not later than 2 years after the date of enactment of this Act, the Secretary shall issue revisions, consistent with paragraph (3), to the principles and guidelines for use

by the Secretary in the formulation, evaluation, and implementation of water resources projects.

(3) Considerations.--In developing revisions to the principles and guidelines under paragraph (2), the Secretary shall evaluate the consistency of the principles and guidelines with, and ensure that the principles and guidelines address, the following:

(A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.

(B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.

(C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.

(D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.

(E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.

(F) Evaluation methods that ensure that water resources projects are justified by public benefits.

(4) Consultation and public participation.--In carrying out paragraph (2), the Secretary shall--

(A) consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, the National Academy of Sciences, and the Council on Environmental Quality; and

(B) solicit and consider public and expert comments.

(5) Publication.--The Secretary shall--

(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives copies of--

(i) the revisions to the principles and guidelines for use by the Secretary; and

(ii) an explanation of the intent of each revision, how each revision is consistent with this section, and the probable impact of each revision on water resources projects carried out by the Secretary; and

(B) make the revisions to the principles and guidelines for use by the Secretary available to the public, including on the Internet.

(6) Effect.--Subject to the requirements of this subsection, the principles and guidelines as revised under this subsection shall apply to water resources projects carried out by the Secretary instead of the principles and guidelines for such projects in effect on the day before date of enactment of this Act.

(7) Applicability.--After the date of issuance of the revisions to the principles and guidelines, the revisions shall apply--

(A) to all water resources projects carried out by the Secretary, other than projects for which the Secretary has commenced a feasibility study before the date of such issuance;

(B) at the request of a non-Federal interest, to a water resources project for which the Secretary has commenced a feasibility study before the date of such issuance; and

(C) to the reevaluation or modification of a water resources project, other than a reevaluation or modification that has been commenced by the Secretary before the date of such issuance.

(8) Existing studies.--Revisions to the principles and guidelines issued under paragraph (2) shall not affect the validity of any completed study of a water resources project.

(9) Recommendation.--Upon completion of the revisions to the principles and guidelines for use by the Secretary, the Secretary shall make a recommendation to Congress as to the advisability of repealing subsections (a) and (b) of section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-17.

**Sec. 2032. [Water Resource Priorities Report.]—**

(a) In General.--Not later than 2 years after the date of enactment of this Act, the President shall submit to Congress a report describing the vulnerability of the United States to damage from flooding, including--

(1) the risk to human life;

(2) the risk to property; and

(3) the comparative risks faced by different regions of the United States.

(b) Inclusions.--The report under subsection (a) shall include--

(1) an assessment of the extent to which programs in the United States relating to flooding address flood risk reduction priorities;

(2) the extent to which those programs may be encouraging development and economic activity in flood-prone areas;

(3) recommendations for improving those programs with respect to reducing and responding to flood risks; and

(4) proposals for implementing the recommendations.

**Sec. 2033. [Planning.]**

(a) Matters to Be Addressed in Planning.--Section 904 of the Water Resources Development Act of 1992 (33 U.S.C. 2281) is amended--

(1) by striking “Enhancing" and inserting the following:

“(a) In General.--Enhancing"; and

(2) by adding at the end the following:

“(b) Assessments.--For all feasibility reports for water resources projects completed after December 31, 2007, the Secretary shall assess whether--

“(1) the water resources project and each separable element is cost-effective; and

“(2) the water resources project complies with Federal, State, and local laws (including regulations) and public policies.".

(b) Planning Process Improvements.--The Chief of Engineers—

(1) shall adopt a risk analysis approach to project cost estimates for water resources projects; and

(2) not later than one year after the date of enactment of this Act, shall—

(A) issue procedures for risk analysis for cost estimation for water resources projects; and

(B) submit to Congress a report that includes any recommended amendments to section 902 of the Water Resources Development Act of 1992 (33 U.S.C. 2280).

(c) Benchmarks.--

(1) In general.--Not later than 12 months after the date of enactment of this Act, the Chief of Engineers shall establish benchmarks for determining the length of time it should take to conduct a feasibility study for a water resources project and its associated review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Chief of Engineers shall use such benchmarks as a management tool to make the feasibility study process more efficient in all districts of the Corps of Engineers.

(2) Benchmark goals.--The Chief of Engineers shall establish, to the extent practicable, under paragraph (1) benchmark goals for completion of feasibility studies for water resources projects generally within 2 years. In the case of feasibility studies that the Chief of Engineers determines may require additional time based on the project type, size, cost, or complexity, the benchmark goal for completion shall be generally within 4 years.

(d) Calculation of Benefits and Costs for Flood Damage Reduction Projects.--A feasibility study for a project for flood damage reduction shall include, as part of the calculation of benefits and costs--

(1) a calculation of the residual risk of flooding following completion of the proposed project;

(2) a calculation of the residual risk of loss of human life and residual risk to human safety following completion of the proposed project;

(3) a calculation of any upstream or downstream impacts of the proposed project; and

(4) calculations to ensure that the benefits and costs associated with structural and nonstructural alternatives are evaluated in an equitable manner.

(e) Centers of Specialized Planning Expertise.--

(1) Establishment.--The Secretary may establish centers of expertise to provide specialized planning expertise for water resources projects to be carried out by the Secretary in order to enhance and supplement the capabilities of the districts of the Corps of Engineers.

(2) Duties.--A center of expertise established under this subsection shall--

(A) provide technical and managerial assistance to district commanders of the Corps of Engineers for project planning, development, and implementation;

(B) provide agency peer reviews of new major scientific, engineering, or economic methods, models, or analyses that will be used to support decisions of the Secretary with respect to feasibility studies for water resources projects;

(C) provide support for independent peer review panels under section 2034; and

(D) carry out such other duties as are prescribed by the Secretary.

(f) Completion of Corps of Engineers Reports.--

(1) Alternatives.--

(A) In general.--Feasibility and other studies and assessments for a water resources project shall include recommendations for alternatives--

(i) that, as determined in coordination with the non-Federal interest for the project, promote integrated water resources management; and

(ii) for which the non-Federal interest is willing to provide the non-Federal share for the studies or assessments.

(B) Constraints.--The alternatives contained in studies and assessments described in subparagraph (A) shall not be constrained by budgetary or other policy.

(C) Reports of chief of engineers.--The reports of the Chief of Engineers shall identify any recommendation that is not the best technical solution to water resource needs and problems and the reason for the deviation.

(2) Report completion.--The completion of a report of the Chief of Engineers for a water resources project--

(A) shall not be delayed while consideration is being given to potential changes in policy or priority for project consideration; and

(B) shall be submitted, on completion, to--

(i) the Committee on Environment and Public Works of the Senate; and

(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) Completion Review.--

(1) In general.-- Except as provided in paragraph (2), not later than 120 days after the date of completion of a report of the Chief of Engineers that recommends to Congress a water resources project, the Secretary shall--

(A) review the report; and

(B) provide any recommendations of the Secretary regarding the water resources project to Congress.

(2) Prior reports.-- Not later than 180 days after the date of enactment of this Act, with respect to any report of the Chief of Engineers recommending a water resources project that is complete prior to the date of enactment of this Act, the Secretary shall complete review of, and provide recommendations to Congress for, the report in accordance with paragraph (1).

**Sec. 2034. [Independent Peer Review.]**

(a) Project Studies Subject to Independent Peer Review.--

(1) In general.--Project studies shall be subject to a peer review by an independent panel of experts as determined under this section.

(2) Scope.--The peer review may include a review of the economic and environmental assumptions and projections, project evaluation data, economic analyses, environmental analyses, engineering analyses, formulation of alternative plans, methods for integrating risk and uncertainty, models used in evaluation of
economic or environmental impacts of proposed projects, and any biological opinions of the project study.

(3) Project studies subject to peer review.--

(A) Mandatory.--A project study shall be subject to peer review under paragraph (1) if--

(i) the project has an estimated total cost of more than $45,000,000, including mitigation costs, and is not determined by the Chief of Engineers to be exempt from peer review under paragraph (6);

(ii) the Governor of an affected State requests a peer review by an independent panel of experts; or

(iii) the Chief of Engineers determines that the project study is controversial considering the factors set forth in paragraph (4).

(B) Discretionary.--

(i) Agency request.--A project study shall be considered by the Chief of Engineers for peer review under this section if the head of a Federal or State

agency charged with reviewing the project study determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency after implementation of proposed mitigation plans and requests a peer review by an independent panel of experts.

(ii) Deadline for decision.--A decision of the Chief of Engineers under this subparagraph whether to conduct a peer review shall be made within 21 days of the date of receipt of the request by the head of the Federal or State agency under clause (i).

(iii) Reasons for not conducting peer review.--If the Chief of Engineers decides not to conduct a peer review following a request under clause (i), the Chief shall make publicly available, including on the Internet, the reasons for not conducting the peer review.

(iv) Appeal to chairman of council on environmental quality.--A decision by the Chief of Engineers not to conduct a peer review following a request under clause (i) shall be subject to appeal by a person referred to in clause (i) to the Chairman of the Council on Environmental Quality if such appeal is made within the 30-day period following the date of the decision
being made available under clause (iii). decision of the Chairman on an appeal under this clause shall be made within 30 days of the date of the appeal.

(4) Factors to consider.--In determining whether a project study is controversial under paragraph (3)(A)(iii), the Chief of Engineers shall consider if--

(A) there is a significant public dispute as to the size, nature, or effects of the project; or

(B) there is a significant public dispute as to the economic or environmental costs or benefits of the project.

(5) Project studies excluded from peer review.--The Chief of Engineers may exclude a project study from peer review under paragraph (1)--

(A) if the project study does not include an environmental impact statement and is a project study subject to peer review under paragraph (3)(A)(i) that the Chief of Engineers determines--

(i) is not controversial;

(ii) has no more than negligible adverse impacts on scarce or unique cultural, historic, or tribal resources;

(iii) has no substantial adverse impacts on fish and wildlife species and their habitat prior to the implementation of mitigation measures; and

(iv) has, before implementation of mitigation measures, no more than a negligible adverse impact on a species listed as endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the critical habitat of such species designated under such Act;

(B) if the project study--

(i) involves only the rehabilitation or replacement of existing hydropower turbines, lock structures, or flood control gates within the same footprint and for the same purpose as an existing water resources project;

(ii) is for an activity for which there is ample experience within the Corps of Engineers and industry to treat the activity as being routine; and

(iii) has minimal life safety risk; or

(C) if the project study does not include an environmental impact statement and is a project study pursued under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g), section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), section 107(a) of the River and Harbor Act of 1960 (33 U.S.C. 577(a)), section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426(g), section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426(i), section 3 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (33 U.S.C. 603a), section 1135 of the Water Resources Development Act of 1992 (33 U.S.C. 2309a), or section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(6) Determination of total cost.--For purposes of determining the estimated total cost of a project under paragraph (3)(A), the total cost shall be based upon the reasonable estimates of the Chief of Engineers at the completion of the reconnaissance study for the project. If the reasonable estimate of total costs is subsequently determined to be in excess of the amount in paragraph (3)(A), the Chief of Engineers shall make a determination whether a project study is required to be reviewed under this section.

(b) Timing of Peer Review.--

(1) In general.-- The Chief of Engineers shall determine the timing of a peer review of a project study under subsection (a). In all cases, the peer review shall occur during the period beginning on the date of the signing of the feasibility cost-sharing agreement for the study and ending on the date established under subsection (e)(1)(A) for the peer review and shall be accomplished concurrent with the conducting of the project study.

(2) Factors to consider.-- In any case in which the Chief of Engineers has not initiated a peer review of a project study, the Chief of Engineers shall consider, at a minimum, whether to initiate a peer review at the time that--

(A) the without-project conditions are identified;

(B) the array of alternatives to be considered are identified; and

(C) the preferred alternative is identified.

(3) Limitation on multiple peer review.--Nothing in this subsection shall be construed to require the Chief of Engineers to conduct multiple peer reviews for a project study.

(c) Establishment of Panels.--

(1) In general.--For each project study subject to peer review under subsection (a), as soon as practicable after the Chief of Engineers determines that a project study will be subject to peer review, the Chief of Engineers shall contract with the National Academy of Sciences or a similar independent scientific and technical advisory organization or an eligible organization to establish a panel of experts to conduct a peer review for the project study.

(2) Membership.--A panel of experts established for a project study under this section shall be composed of independent experts who represent a balance of areas of expertise suitable for the review being conducted.

(3) Limitation on appointments.--The National Academy of Sciences or any other organization the Chief of Engineers contracts with under paragraph (1) to establish a panel of experts shall apply the National Academy of Science's policy for selecting committee

members to ensure that members selected for the panel of experts have no conflict with the project being reviewed.

(4) Congressional notification.--Upon identification of a project study for peer review under this section, but prior to initiation of the review, the Chief of Engineers shall notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the review.

(d) Duties of Panels.--A panel of experts established for a peer review for a project study under this section shall--

(1) conduct the peer review for the project study;

(2) assess the adequacy and acceptability of the economic, engineering, and environmental methods, models, and analyses used by the Chief of Engineers;

(3) receive from the Chief of Engineers the public written and oral comments provided to the Chief of Engineers;

(4) provide timely written and oral comments to the Chief of Engineers throughout the development of the project study, as requested; and

(5) submit to the Chief of Engineers a final report containing the panel's economic, engineering, and environmental analysis of the project study, including the panel's assessment of the adequacy and acceptability of the economic, engineering, and environmental methods, models, and analyses used by the Chief of Engineers, to accompany the publication of the report of the Chief of Engineers for the project.

(e) Duration of Project Study Peer Reviews.--

(1) Deadline.--A panel of experts established under this section shall--

(A) complete its peer review under this section for a project study and submit a report to the Chief of Engineers under subsection (d)(5) not more than 60 days after the last day of the public comment period for the draft project study, or, if the Chief of Engineers determines that a longer period of time is necessary, such period of time determined necessary by the Chief of Engineers; and

(B) terminate on the date of initiation of the State and agency review required by the first section of the Flood Control Act of December 22, 1944 (58 Stat. 887).

(2) Failure to meet deadline.--If a panel of experts does not complete its peer review of a project study under this section and submit a report to the Chief of Engineers under subsection (d)(5) on or before the deadline established by paragraph (1) for the peer review, the Chief of Engineers shall complete the project study without delay.

(f) Recommendations of Panel.--

(1) Consideration by the chief of engineers.--After receiving a report on a project study from a panel of experts under this section and before entering a final record of decision for the project, the Chief of Engineers shall consider any recommendations contained in the report and prepare a written response for any recommendations adopted or not adopted.

(2) Public availability and transmittal to congress.--After receiving a report on a project study from a panel of experts under this section, the Chief of Engineers shall--

(A) make a copy of the report and any written response of the Chief of Engineers on recommendations contained in the report available to the public by electronic means, including the Internet; and

(B) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report, together with any such written response, on the date of a final

report of the Chief of Engineers or other final decision document for the project study.

(g) Costs.--

(1) In general.--The costs of a panel of experts established for a peer review under this section--

(A) shall be a Federal expense; and

(B) shall not exceed $500,000.

(2) Waiver.--The Chief of Engineers may waive the $500,000 limitation contained in paragraph (1)(B) in cases that the Chief of Engineers determines appropriate.

(h) Applicability.--This section shall apply to--

(1) project studies initiated during the 2-year period preceding the date of enactment of this Act and for which the array of alternatives to be considered has not been identified; and

(2) project studies initiated during the period beginning on such date of enactment and ending 7 years after such date of enactment.

(i) Reports.--

(1) Initial report.--Not later than 3 years after the date of enactment of this section, the Chief of Engineers shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of this section.

(2) Additional report.--Not later than 6 years after the date of enactment of this section, the Chief of Engineers shall update the report under paragraph (1) taking into account any further information on implementation of this section and submit such updated report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(j) Nonapplicability of FACA.--The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer review panel established under this section.

(k) Savings Clause.--Nothing in this section shall be construed to affect any authority of the Chief of Engineers to cause or conduct a peer review of a water resources project existing on the date of enactment of this section.

(l) Definitions.--In this section, the following definitions apply:

(1) Project study.--The term “project study" means--

(A) a feasibility study or reevaluation study for a water resources project, including the environmental impact statement prepared for the study; and

(B) any other study associated with a modification of a water resources project that includes an environmental impact statement, including the environmental impact statement prepared for the study.

(2) Affected state.--The term “affected State", as used with respect to a water resources project, means a State all or a portion of which is within the drainage basin in which the project is or would be located and would be economically or environmentally affected as a consequence of the project.

(3) Eligible organization.--The term “eligible organization" means an organization that--

(A) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986;

(B) is independent;

(C) is free from conflicts of interest;

(D) does not carry out or advocate for or against Federal water resources projects; and

(E) has experience in establishing and administering peer review panels.

(4) Total cost.--The term “total cost", as used with respect to a water resources project, means the cost of construction (including planning and designing) of the project. In the case of a project for hurricane and storm damage reduction or flood damage reduction that includes periodic nourishment over the life of the project, the term includes the total cost of the nourishment.

**Sec. 2035. [Safety Assurance Review.]**

(a) Projects Subject to Safety Assurance Review.--The Chief of Engineers shall ensure that the design and construction activities for hurricane and storm damage reduction and flood damage reduction projects are reviewed by independent experts under this section if the Chief of Engineers determines that a review by independent experts is necessary to assure public health, safety, and welfare.

(b) Factors.--In determining whether a review of design and construction of a project is necessary under this section, the Chief of Engineers shall consider whether--

(1) the failure of the project would pose a significant threat to human life;

(2) the project involves the use of innovative materials or techniques;

(3) the project design lacks redundancy; or

(4) the project has a unique construction sequencing or a reduced or overlapping design construction schedule.

(c) Safety Assurance Review.--

(1) Initiation of review.--At the appropriate point in the development of detailed engineering and design specifications for each water resources project subject to review under this section, the Chief of Engineers shall initiate a safety assurance review by independent experts on the design and construction activities for the project.

(2) Selection of reviewers.--A safety assurance review under this section shall include participation by experts selected by the Chief of Engineers from among individuals who are distinguished experts in engineering, hydrology, or other appropriate disciplines. The Chief of Engineers shall apply the National Academy of Science's policy for selecting reviewers to ensure that reviewers have no conflict of interest with the project being reviewed.

(3) Compensation.--An individual serving as an independent reviewer under this section shall be compensated at a rate of pay to be determined by the Secretary and shall be allowed travel expenses.

(d) Scope of Safety Assurance Reviews.--A safety assurance review under this section shall include a review of the design and construction activities prior to the initiation of physical construction and periodically thereafter until construction activities are completed on a regular schedule sufficient to inform the Chief of Engineers on the adequacy, appropriateness, and acceptability of the design and construction activities for the purpose of assuring public health, safety, and welfare. The Chief of Engineers shall ensure that reviews under this section do not create any unnecessary delays in design and construction activities.

(e) Safety Assurance Review Record.--The written recommendations of a reviewer or panel of reviewers under this section and the responses of the Chief of Engineers shall be available to the public, including through electronic means on the Internet.

(f) Applicability.--This section shall apply to any project in design or under construction on the date of enactment of this Act and to any project with respect to which design or construction is initiated during the period beginning on the date of enactment of this Act and ending 7 years after such date of enactment.

**Sec. 2036. [Mitigation for Fish and Wildlife and Wetlands Losses.]**

(a) Mitigation for Fish and Wildlife Losses.--Section 906(d) of the Water Resources Development Act of 1992 (33 U.S.C. 2283(d)) is amended--

(1) in the first sentence of paragraph (1) by striking “to the Congress" and inserting “to Congress in any report, and shall not select a project alternative in any report,";

(2) in the second sentence of paragraph (1) by inserting “, and other habitat types are mitigated to not less than in-kind conditions" after “mitigated in-kind"; and

(3) by adding at the end the following:

“(3) Mitigation requirements.--

“(A) In general.--To mitigate losses to flood damage reduction capabilities and fish and wildlife resulting from a water resources project, the Secretary shall ensure that the mitigation plan for each water resources project complies with the mitigation standards and policies established pursuant to the regulatory programs administered by the Secretary.

“(B) Inclusions.--A specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum--

“(i) a plan for monitoring the implementation and ecological success of each mitigation measure, including the cost and duration of any monitoring, and, to the extent practicable, a designation of the entities that will be responsible for the monitoring;

“(ii) the criteria for ecological success by which the mitigation will be evaluated and determined to be successful based on replacement of lost functions and values of the habitat, including hydrologic and vegetative characteristics;

“(iii) a description of the land and interests in land to be acquired for the mitigation plan and the basis for a determination that the land and interests are available for acquisition;

“(iv) a description of--

“(I) the types and amount of restoration activities to be conducted;

“(II) the physical action to be undertaken to achieve the mitigation objectives within the watershed in which such losses occur and, in any case in which the mitigation will occur outside the watershed, a detailed explanation for undertaking the mitigation outside the watershed; and

“(III) the functions and values that will result from the mitigation plan; and

“(v) a contingency plan for taking corrective actions in cases in which monitoring demonstrates that mitigation measures are not achieving ecological success in accordance with criteria under clause (ii).

“(C) Responsibility for monitoring.--In any case in which it is not practicable to identify in a mitigation plan for a water resources project the entity responsible for monitoring at the time of a final report of the Chief of Engineers or other

final decision document for the project, such entity shall be identified in the partnership agreement entered into with the non-Federal interest under section 221 of Flood Control Act of 1970 (42 U.S.C. 1962d-5(b).

"(4) Determination of success.--

"(A) In general.--A mitigation plan under this subsection shall be considered to be successful at the time at which the criteria under paragraph (3)(B)(ii) are achieved under the plan, as determined by monitoring under paragraph (3)(B)(i).

"(B) Consultation.--In determining whether a mitigation plan is successful under subparagraph (A), the Secretary shall consult annually with appropriate Federal agencies and each State in which the applicable project is located on at least the following:

"(i) The ecological success of the mitigation as of the date on which the report is submitted.

"(ii) The likelihood that the mitigation will achieve ecological success, as defined in the mitigation plan.

"(iii) The projected timeline for achieving that success.

``(iv) Any recommendations for improving the likelihood of success.

``(5) Monitoring.--Mitigation monitoring shall continue until it has been demonstrated that the mitigation has met the ecological success criteria.".

(b) Status Report.--

(1) In general.--Concurrent with the President's submission to Congress of the President's request for appropriations for the Civil Works Program for a fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of construction of projects that require mitigation under section 906 of the Water Resources Development Act of 1992 (33 U.S.C. 2283), the status of such mitigation, and the results of the consultation under subsection (d)(4)(B) of such section.

(2) Projects included.--The status report shall include the status of--

(A) all projects that are under construction as of the date of the report;

(B) all projects for which the President requests funding for the next fiscal year; and

(C) all projects that have undergone or completed construction, but have not completed the mitigation required under section 906 of the Water Resources Development Act of 1986.

(3) Availability of information.--The Secretary shall make information contained in the status report available to the public, including on the Internet.

(c) Wetlands Mitigation.—

(1) In general.--In carrying out a water resources project that involves wetlands mitigation and that has impacts that occur within the service area of a mitigation bank, the Secretary, where appropriate, shall first consider the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605) or other applicable Federal law (including regulations).

(2) Service area.--To the maximum extent practicable, the service area of the mitigation bank under paragraph (1) shall be in the same watershed as the affected habitat.

(3) Responsibility for monitoring.--

(A) In general.--Purchase of credits from a mitigation bank for a water resources project relieves the Secretary and the non-Federal interest from responsibility for monitoring or demonstrating mitigation success.

(B) Applicability.--The relief of responsibility under subparagraph (A) applies only in any case in which the Secretary determines that monitoring of mitigation success is being conducted by the Secretary or by the owner or operator of the mitigation bank.

* * * * *

**Sec. 2043. [Studies and Reports for Water Resources Projects.]**

(a) Studies.--

(1) Cost-sharing requirements.--Section 105(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2215(a)) is amended by adding at the end the following:

(3) Detailed project reports.-- The requirements of this subsection that apply to a feasibility study also shall apply to a study that results in a detailed project report, except that--

(A) the first $100,000 of the costs of a study that results in a detailed project report shall be a Federal expense; and

(B) paragraph (1)(C)(ii) shall not apply to such a study.".

(2) Planning and engineering.--Section 105(b) of such Act (33 U.S.C. 2215(b)) is amended by striking “authorized by this Act".

(3) Definitions.--Section 105 of such Act (33 U.S.C. 2215) is amended by adding at the end the following:

“(d) Definitions.--In this section, the following definitions apply:

“(1) Detailed project report.--The term `detailed project report' means a report for a project not specifically authorized by Congress in law or otherwise that determines the feasibility of the project with a level of detail appropriate to the scope and complexity of the recommended solution and sufficient to proceed directly to the preparation of contract plans and specifications. The term includes any associated environmental impact statement and mitigation plan. For a project for which the Federal cost does not exceed $1,000,000, the term includes a planning and design analysis document.

“(2) Feasibility study.--The term `feasibility study' means a study that results in a feasibility report under section 905, and any associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project. The term includes a study that results in a project implementation report prepared under title VI of the Water Resources Development Act of 2000 (114 Stat. 2680-2694), a general reevaluation report, and a limited reevaluation report.".

(b) Reports.--

(1) Preparation.--Section 905(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2282(a)) is amended--

(A) by striking “(a) In the case of any" and inserting the following:

“(a) Preparation of Reports.--

“(1) In general.--In the case of any";

(B) by striking “the Secretary, the Secretary shall" and inserting “the Secretary that results in recommendations concerning a project or the operation of a project and that requires specific authorization by Congress in law or otherwise, the Secretary shall perform a reconnaissance study and";

(C) by striking “Such feasibility report" and inserting the following:

“(2) Contents of feasibility reports.--A feasibility report";

(D) by striking ``The feasibility report" and inserting “A feasibility report"; and

(E) by striking the last sentence and inserting the following:

“(3) Applicability.--This subsection shall not apply to--

“(A) any study with respect to which a report has been submitted to Congress before the date of enactment of this Act;

“(B) any study for a project, which project is authorized for construction by this Act and is not subject to section 903(b);

“(C) any study for a project which does not require specific authorization by Congress in law or otherwise; and

“(D) general studies not intended to lead to recommendation of a specific water resources project.

“(4) Feasibility report defined.--In this subsection, the term `feasibility report' means each feasibility report, and any associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project. The term includes a project implementation report prepared under title VI of the Water Resources Development Act of 2000 (114 Stat. 2680-2694), a general reevaluation report, and a limited reevaluation report.".

(2) Projects not specifically authorized by Congress.-- Section 905 of such Act is further amended--

(A) in subsection (b) by inserting “Reconnaissance Studies.--" before “Before initiating";

(B) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(C) by inserting after subsection (b) the following:

``(c) Projects Not Specifically Authorized by Congress.--In the case of any water resources project-related study authorized to be undertaken by the Secretary without specific authorization by Congress in law or otherwise, the Secretary shall prepare a detailed project report.";

(D) in subsection (d) (as so redesignated) by inserting “Indian Tribes.--" before “For purposes of"; and

(E) in subsection (e) (as so redesignated) by inserting “Standard and Uniform Procedures and Practices.--" before “The Secretary shall".

**Sec. 2044. [Coordination and Scheduling of Federal, State, and local actions.]**

(a) Notice of Intent.--Upon request of the non-Federal interest in the form of a written notice of intent to construct or modify a non-Federal water supply, wastewater infrastructure, flood damage reduction, storm damage reduction, ecosystem restoration, or navigation project that requires the approval of the Secretary, the Secretary shall initiate, subject to subsection (c), procedures to establish a schedule for consolidating Federal, State, and local agency and Indian

tribe environmental assessments, project reviews, and issuance of all permits for the construction or modification of the project. All States and Indian tribes having jurisdiction over the proposed project shall be invited by the Secretary, but shall not be required, to participate in carrying out this section with respect to the project.

(b) Coordination.--The Secretary shall seek, to the extent practicable, to consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting processes associated with the project and related activities. The Secretary shall notify, to the extent possible, the non-Federal interest of its responsibilities for data development and information that may be necessary to process each permit required for the project, including a schedule when the information and data should be provided to the appropriate Federal, State, or local agency or Indian tribe.

(c) Costs of Coordination.--The costs incurred by the Secretary to establish and carry out a schedule to consolidate Federal, State, and local agency and Indian tribe environmental assessments, project reviews, and permit issuance for a project under this section shall be paid by the non-Federal interest.

(d) Report on Timesavings Methods.-- Not later than 3 years after the date of enactment of this section, the Secretary shall prepare and transmit to Congress a report estimating the time required for the issuance of all Federal, State, local, and tribal permits for the construction of non-Federal projects for water supply, wastewater infrastructure, flood damage reduction, storm damage reduction, ecosystem restoration, and navigation.

**Sec. 2045. [Project Streamlining.]**

(a) Policy.-- The benefits of water resources projects are important to the Nation's economy and environment, and recommendations to Congress regarding such projects should not be delayed due to uncoordinated or inefficient reviews or the failure to timely resolve disputes during the development of water resources projects.

(b) Scope.--This section shall apply to each study initiated after the date of enactment of this Act to develop a feasibility report under section 905 of the Water Resources Development Act of 1992 (33 U.S.C. 2282), or a reevaluation report, for a water resources project if the Secretary determines that such study requires an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) Water Resources Project Review Process.--The Secretary shall develop and implement a coordinated review process for the development of water resources projects.

(d) Coordinated Reviews.--The coordinated review process under this section may provide that all reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal, State, or local government agency or Indian tribe for the development of a water resources project described in subsection (b) will be conducted, to the maximum extent practicable, concurrently and completed within a time period established by the Secretary in cooperation with the agencies identified under subsection (e) with respect to the project.

(e) Identification of Jurisdictional Agencies.--With respect to the development of each water resources project, the Secretary shall identify, as soon as practicable, all Federal, State, and local government agencies and Indian tribes that may--

(1) have jurisdiction over the project;

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

(3) be required to make a determination on issuing a permit, license, or approval for the project.

(f) State Authority.-- If the coordinated review process is being implemented under this section by the Secretary with respect to the development of a water resources project described in subsection (b) within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that--

(1) have jurisdiction over the project;

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

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

(g) Memorandum of Understanding.-- The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a water resources project between the Secretary, the heads of Federal, State, and local government agencies, Indian tribes
identified under subsection (e), and the non-Federal interest for the project.

(h) Effect of Failure to Meet Deadline.--

(1) Notification.--If the Secretary determines that a Federal, State, or local government agency, Indian tribe, or non-Federal interest that is participating in the coordinated review process under this section with respect to the development of a water resources project has not met a deadline established under subsection (d) for the project, the Secretary shall notify, within 30 days of the date of such determination, the agency, Indian tribe, or non-Federal interest about the failure to meet the deadline.

(2) Agency report.--Not later than 30 days after the date of receipt of a notice under paragraph (1), the Federal, State, or local government agency, Indian tribe, or non-Federal interest involved may submit a report to the Secretary, explaining why the agency, Indian tribe, or non-Federal interest did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, or opinion or determination on issuing a permit, license, or approval.

(3) Report to congress.--Not later than 30 days after the date of receipt of a report under paragraph (2), the Secretary shall compile and submit a report to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Council on Environmental Quality, describing any deadlines identified in paragraph (1), and any information provided to the Secretary by the Federal, State, or local government agency, Indian tribe, or non-Federal interest involved under paragraph (2).

(i) Limitations.-- Nothing in this section shall preempt or interfere with--

(1) any statutory requirement for seeking public comment;

(2) any power, jurisdiction, or authority that a Federal, State, or local government agency, Indian tribe, or non-Federal interest has with respect to carrying out a water resources project; or

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 and the regulations issued by the Council on Environmental Quality to carry out such Act.

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**TITLE III--PROJECT-RELATED PROVISIONS**

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**Sec. 3003. [King Harbor, Alaska.]--** The maximum amount of Federal funds that may be expended for the project for navigation, King Cove Harbor, Alaska, being carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), shall be $8,000,000.

**Sec. 3004. [Seward Harbor, Alaska.]--** The project for navigation, Seward Harbor, Alaska, authorized by section 101(a)(3) of the Water Resources Development Act of 1999 (113 Stat. 274), is modified to authorize the Secretary to extend the existing breakwater by approximately 215 feet, at a total cost of $3,333,000, with an estimated Federal cost of $2,666,000 and an estimated non-Federal cost of $667,000.

**Sec. 3005. [Sitka, Alaska.]--** The Sitka, Alaska, element of the project for navigation, Southeast Alaska Harbors of Refuge, Alaska, authorized by section 101(1) of the Water Resources Development Act of 1992 (106 Stat. 4801), is modified to direct the Secretary to take such action as is necessary to correct design deficiencies in the Sitka Harbor Breakwater at Federal expense. The estimated cost is $6,300,000.

**Sec. 3006. [Tatitlek, Alaska.]--** The maximum amount of Federal funds that may be expended for the project for navigation, Tatitlek, Alaska, being carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), shall be $10,000,000.

**Sec. 3007. [Rio De Flag, Flagstaff, Arizona.]--** The project for flood damage reduction, Rio De Flag, Flagstaff, Arizona, authorized by section 101(b)(3) of the Water Resources Development Act of 2000 (114 Stat. 2576), is modified to authorize the Secretary to construct the project at a total cost of $54,100,000, with an estimated Federal cost of $35,000,000 and a non-Federal cost of $19,100,000.

**Sec. 3008. [Nogales Wash and Tributaries Flood Control Project, Arizona.]--** The project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606) and modified by section 303 of the Water Resources Development Act of 1996 (110 Stat. 3711) and section 302 of the Water Resources Development Act of 2000 (114 Stat. 2600), is modified to authorize the Secretary to construct the project at a total cost of $25,410,000, with an estimated Federal cost of $22,930,000 and an estimated non-Federal cost of $2,480,000.

**Sec. 3009. [Tucson Drainage Area, Arizona.]--** The project for flood damage reduction, environmental restoration, and recreation, Tucson drainage area, Arizona, authorized by section 101(a)(5) of the Water Resources Development Act of 1999 (113 Stat. 274), is modified to authorize the Secretary to construct the project at a total cost of $66,700,000, with an estimated Federal cost of $43,350,000 and an estimated non-Federal cost of $23,350,000.

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**Sec. 3014. [Cache Creek Basin, California.]**

(a) In General.-- The project for flood control, Cache Creek Basin, California, authorized by section 401(a) of the Water Resources Development Act of 1992 (100 Stat. 4112), is modified to direct the Secretary to mitigate the impacts of the new south levee of the Cache Creek settling basin on the storm drainage system of the city of Woodland, including all appurtenant features, erosion control measures, and environmental protection features.

(b) Objectives.-- Mitigation under subsection (a) shall restore the preproject capacity of the city of Woodland to release 1,360 cubic feet per second of water to the Yolo Bypass and shall include--

(1) channel improvements;

(2) an outlet work through the west levee of the Yolo Bypass; and
(3) a new low flow cross channel to handle city and county storm drainage and settling basin flows (1,760 cubic feet per second) when the Yolo Bypass is in a low flow condition.

**Sec. 3015. [CALFED Stability Program, California.]**

(a) Amendments.--Section 103(f)(3) of the Water Supply, Reliability, and Environmental Improvement Act (118 Stat. 1695-1696) is amended--

(1) in subparagraph (A) by striking ``within the Delta (as defined in Cal. Water Code Sec. 12220)";

(2) by striking subparagraph (C) and inserting the following:

"(C) Justification.—

"(i) In general.--Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962-2), in carrying out levee stability programs and projects pursuant to this paragraph, the Secretary of the Army may determine that the programs and projects are justified by the benefits of the project purposes described in subparagraph (A), and the programs and projects shall require no additional economic justification if the Secretary of the Army further determines that the programs and projects are cost effective.

"(ii) Applicability.--Clause (i) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the Project purposes described in subparagraph (A)."; and

(3) in subparagraph (D)(i) by inserting ``as described in the Record of Decision" after "Public Law 84-99 standard)".

(b) Additional Authorization of Appropriations.--In addition to funds made available pursuant to the Water Supply, Reliability, and Environmental Improvement Act (Public Law 108-361) to carry out section 103(f)(3)(D) of that Act (118 Stat. 1696), there is authorized to be appropriated to carry out projects described in that section $106,000,000, to remain available until expended.

**Sec. 3016. [Compton Creek, California.]--** The project for flood control, Los Angeles Drainage Area, California, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611), is modified to add environmental restoration and recreation as project purposes.

**Sec. 3017. [Grayson Creek/Murderer's Creek.]--** The project for aquatic ecosystem restoration, Grayson Creek/Murderer's Creek, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified--

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to authorize the Secretary to consider national ecosystem restoration benefits in determining the Federal interest in the project.

**Sec. 3018. [Hamilton Airfield, California.]--** The project for environmental restoration, Hamilton Airfield, California, authorized by section 101(b)(3) of the Water Resources Development Act of 1999 (113 Stat. 279), is modified to direct the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers dated July 19, 2004, at a total cost of $228,100,000, with an estimated Federal cost of $171,100,000 and an estimated non-Federal cost of $57,000,000.

**Sec. 3019. [John F. Baldwin Ship Channel and Stockton Ship Cannel, California.]--** The project for navigation, San Francisco to Stockton, California, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091) is modified--

(1) to provide that the non-Federal share of the cost of the John F. Baldwin Ship Channel and Stockton Ship Channel element of the project may be provided in the form of in-kind services and materials; and

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of such element the cost of planning and design work carried out by the non-Federal interest for such element before the date of an agreement for such planning and design.

**Sec. 3020. [Kaweah River, California.]--** The project for flood control, Terminus Dam, Kaweah River, California, authorized by section 101(b)(5) of the Water Resources Development Act of 1996 (110 Stat. 3658), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) toward the non-Federal share of the cost of the project, or provide reimbursement not to exceed $800,000, for the costs of any work carried out by the non-Federal interest for the project before the date of the project partnership agreement.

**Sec. 3021. [Larkspur Ferry Channel, Larkspur, California.]--** The project for navigation, Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1992 (100 Stat. 4148), is modified to direct the Secretary to determine whether maintenance of the project is feasible, and if the Secretary determines that maintenance of the project is feasible, to carry out such maintenance.

**Sec. 3022. [Llagas Creek, California.]**

(a) In General.--The project for flood damage reduction, Llagas Creek, California, authorized to direct the Secretary to carry out the project at a total cost of $105,000,000, with an estimated Federal cost of $65,000,000 and an estimated non-Federal cost of $40,000,000.

(b) Special Rule.--In evaluating and implementing the project, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1992 (100 Stat. 4184) if the detailed project report evaluation indicates that applying such section is necessary to implement the project.

**Sec. 3023. [Magpie Creek, California.]**

(a) In General.-- The project for Magpie Creek, California, authorized under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), is modified to direct the Secretary to apply the cost-sharing requirements of section 103(b) of the Water Resources Development Act of 1992 (100 Stat. 4085) for the portion of the project consisting of land acquisition to preserve and enhance existing floodwater storage.

(b) Credit.-- The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(c) Cost.-- The maximum amount of Federal funds that may be expended for the project referred to in subsection (a) shall be $10,000,000.

**Sec. 3024. [Pacific Flyway Center, Sacramento, California.]--** The project for aquatic ecosystem restoration, Pacific Flyway Center, Sacramento, California, being carried out under

section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to authorize the Secretary to expend $2,000,000 to enhance public access to the project.

**Sec. 3025. [Petaluma River, Petaluma, California.]--** The project for flood damage reduction, Petaluma River, Petaluma, California, authorized by section 112 of the Water Resources Development Act of 2000 (114 Stat. 2587), is modified to authorize the Secretary to construct the project at a total cost of $41,500,000, with an estimated Federal cost of $26,975,000 and an estimated non-Federal cost of $14,525,000.

**Sec. 3026. [Pinole Creek, California.]--** The project for improvement of the quality of the environment, Pinole Creek Phase I, California, being carried out under section 1135 of the Water Resources Development Act of 1992 (33 U.S.C. 2309a), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d5, toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

**Sec. 3027. [Prado Dam, California.]--** Upon completion of the modifications to the Prado Dam element of the project for flood control, Santa Ana River Mainstem, California, authorized by section 401(a) of the Water Resources Development Act of 1992 (100 Stat. 4113), the Memorandum of Agreement for the Operation for Prado Dam for Seasonal Additional Water Conservation between the Department of the Army and the Orange County Water District (including all the conditions and stipulations in the memorandum) shall remain in effect for volumes of water made available prior to such modifications.

**Sec. 3028. [Redwood City Navigation Channel, California.]--** The Secretary may dredge the Redwood City Navigation Channel, California, on an annual basis, to maintain the authorized depth of -30 feet mean lower low water.

**Sec. 3029. [Sacramento and American Rivers Flood Control, California.]**

(a) Natomas Levee Features.--

(1) In general.-- The project for flood control and recreation, Sacramento and American Rivers, California (Natomas Levee features), authorized by section 9159 of the Department of Defense Appropriations Act, 1993 (106 Stat. 1944), is modified to direct the Secretary to credit $20,503,000 to the Sacramento Area Flood Control Agency for the nonreimbursed Federal share of costs incurred by the Agency in connection with the project.

(2) Allocation of credit.-- The Secretary shall allocate the amount to be credited pursuant to paragraph (1) toward the non-Federal share of such projects as are requested by the Sacramento Area Flood Control Agency.

(b) Joint Federal Project at Folsom Dam.--

(1) In general.--The project for flood control, American and Sacramento Rivers, California, authorized by section 101(a)(6)(A) of the Water Resources Development Act of 1999 (113 Stat. 274) and modified by section 128 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2259), is modified to authorize the Secretary to construct the auxiliary spillway generally in accordance with the Post Authorization Change Report, American River Watershed Project (Folsom Dam Modification and Folsom Dam Raise Projects), dated March 2007, at a total cost of $683,000,000, with an estimated Federal cost of $444,000,000 and an estimated non-Federal cost of $239,000,000.

(2) Dam safety.--Nothing in this subsection limits the authority of the Secretary of the Interior to carry out dam safety activities in connection with the auxiliary spillway in accordance with the Bureau of Reclamation safety of dams program.

(3) Transfer of funds.--

(A) In general.--The Secretary and the Secretary of the Interior are authorized to transfer between the Department of the Army and the Department of the Interior appropriated amounts and other available funds (including funds contributed by non-Federal interests) for the purpose of planning, design, and construction of the auxiliary spillway.

(B) Terms and conditions.--Any transfer made pursuant to this subsection shall be subject to such terms and conditions as may be agreed on by the Secretary and the Secretary of the Interior.

**Sec. 3030. [Sacramento Deep Water Ship Channel, California.]--** The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1992 (100 Stat. 4092), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

**Sec. 3031. [Sacramento River Bank Protection, California.]--** Section 202 of the River Basin Monetary Authorization Act of 1974 (88 Stat. 49) is amended by striking “and the monetary authorization" and all that follows through the period at the end and inserting “; except that the lineal feet in the second phase shall be increased from 405,000 lineal feet to 485,000 lineal feet.".

**Sec. 3032. [Salton Sea Restoration, California.]**

(a) Definitions.--In this section, the following definitions apply:

(1) Salton Sea authority.--The term “Salton Sea Authority" means the joint powers authority established under the laws of the State by a joint power agreement signed on June 2, 1993.

(2) Salton Sea science office.--The term “Salton Sea Science Office" means the office established by the United States Geological Survey and located on the date of enactment of this Act in La Quinta, California.

(3) State.--The term “State" means the State of California.

(b) Pilot Projects.--

(1) In general.--

(A) Review.--The Secretary shall review the plan approved by the State, entitled the “Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan", and dated May 2007 to determine whether the pilot projects described in the plan are feasible.

(B) Implementation.--

(i) In general.--Subject to clause (ii), if the Secretary determines that the pilot projects referred to in subparagraph (A) meet the requirements described in that subparagraph, the Secretary may--

(I) enter into an agreement with the State; and

(II) in consultation with the Salton Sea Authority and the Salton Sea Science Office, carry out pilot projects for improvement of the environment in the area of the Salton Sea.

(ii) Requirement.--The Secretary shall be a party to each contract for construction entered into under this subparagraph.

(2) Local participation.-- In prioritizing pilot projects under this section, the Secretary shall-

(A) consult with the State, the Salton Sea Authority, and the Salton Sea Science Office; and

(B) take into consideration the priorities of the State and the Salton Sea Authority.

(3) Cost sharing.-- Before carrying out a pilot project under this section, the Secretary shall enter into a written agreement with the State that requires the non-Federal interest for the pilot project to pay 35 percent of the total costs of the pilot project.

(c) Authorization of Appropriations.--There is authorized to be appropriated to carry out subsection (b) $30,000,000, of which not more than $5,000,000 shall be used for any one pilot project under this section.

**Sec. 3033. [Santa Ana River Mainstem, California.]**-- The project for flood control, Santa Ana River Mainstem (including Santiago Creek, California), authorized by section 401(a) of the Water Resources Development Act of 1992 (100 Stat. 4113) and modified by section 104 of the Energy and Water Development Appropriation Act, 1988 (101 Stat. 1329-111) and section 309 of the Water Resources Development Act of 1996 (110 Stat. 3713), is further modified to authorize the Secretary to carry out the project at a total cost of $1,800,000,000 and to clarify that the Santa Ana River Interceptor Line is an element of the project.

**Sec. 3034. [Sana Barbara Streams, Lower Mission Creek, California.]**-- The project for flood damage reduction, Santa Barbara streams, Lower Mission Creek, California, authorized by section 101(b)(8) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of $30,000,000, with an estimated Federal cost of $15,000,000 and an estimated non-Federal cost of $15,000,000.

**Sec. 3035. [Santa Cruz Harbor, California.]**-- The project for navigation, Santa Cruz Harbor, California, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 300) and modified by section 809 of the Water Resources Development Act of 1992 (100 Stat. 4168) and section 526 of the Water Resources Development Act of 1999 (113 Stat. 346), is modified to direct the Secretary--

(1) to renegotiate the memorandum of agreement with the non-Federal interest to increase the annual payment to reflect the updated cost of operation and maintenance that is the Federal and non-Federal share as provided by law based on the project purpose; and

(2) to revise the memorandum of agreement to include terms that revise such payments for inflation.

**Sec. 3036. [Seven Oaks Dam, California.]**-- The project for flood control, Santa Ana Mainstem, authorized by section 401(a) of the Water Resources Development Act of 1992 (100 Stat. 4113) and modified by section 104 of the Energy and Water Development Appropriations Act, 1988 (101 Stat. 1329-11), section 102(e) of the Water Resources Development Act of 1990 (104 Stat. 4611), and section 311 of the Water Resources Development Act of 1996 (110 Stat. 3713), is modified to direct the Secretary--

(1) to include ecosystem restoration benefits in the calculation of benefits for the Seven Oaks Dam, California, portion of the project; and

(2) to conduct a study of water conservation and water quality at the Seven Oaks Dam.

**Sec. 3037. [Upper Guadalupe River, California.]--** The project for flood damage reduction and recreation, Upper Guadalupe River, California, authorized by section 101(a)(9) of the Water Resources Development Act of 1999 (113 Stat. 275), is modified to authorize the Secretary to construct the project generally in accordance with the Upper Guadalupe River Flood Damage Reduction, San Jose, California, Limited Reevaluation Report, dated March 2004, at a total cost of $256,000,000, with an estimated Federal cost of $136,700,000 and an estimated non-Federal cost of $119,300,000.

**Sec. 3038. [Walnut Creek Channel, California.]--** The project for aquatic ecosystem restoration, Walnut Creek Channel, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified--

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to authorize the Secretary to consider national ecosystem restoration benefits in determining the Federal interest in the project.

**Sec. 3039. [Wildcat/San Pablo Creek Phase I, California.]--** The project for improvement of the quality of the environment, Wildcat/San Pablo Creek Phase I, California, being carried out under section 1135 of the Water Resources Development Act of 1992 (33 U.S.C. 2309a), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

**Sec. 3040. [Wildcat/San Pablo Creek Phase II, California.]--** The project for aquatic ecosystem restoration, Wildcat/San Pablo Creek Phase II, California, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project and to authorize the Secretary to consider national ecosystem restoration benefits in determining the Federal interest in the project.

**Sec. 3041. [Yuba River Basin Project, California.]--** The project for flood damage reduction, Yuba River Basin, California, authorized by section 101(a)(10) of the Water Resources Development Act of 1999 (113 Stat. 275), is modified--

(1) to authorize the Secretary to construct the project at a total cost of $107,700,000, with an estimated Federal cost of $70,000,000 and an estimated non-Federal cost of $37,700,000; and

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

**Sec. 3042. [South Platte River Basin, Colorado.]--** Section 808 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended by striking “agriculture," and inserting “agriculture, environmental restoration,".

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**Sec. 3057. [Little Wood River, Gooding, Idaho.]**
(a) In General.--The project for flood control, Gooding, Idaho, constructed under the emergency conservation work program established under the Act of March 31, 1933 (16 U.S.C. 585 et seq.), is modified--

(1) to direct the Secretary to rehabilitate the Gooding Channel project for the purposes of flood control and ecosystem restoration if the Secretary determines that such rehabilitation is not required as a result of improper operation and maintenance of the project by the non-Federal interest and that the rehabilitation and ecosystem restoration is feasible; and
(2) to direct the Secretary to plan, design, and construct the project at a total cost of $9,000,000.

(b) Cost Sharing.--

(1) In general.-- Costs for reconstruction of a project under this section shall be shared by the Secretary and the non-Federal interest in the same percentages as the costs of construction of the original project were shared.
(2) Operation, maintenance, and repair costs.-- The costs of operation, maintenance, repair, and rehabilitation of a project carried out under this section shall be a non-Federal responsibility.

(c) Economic Justification.--Reconstruction efforts and activities carried out under this section shall not require economic justification.

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**Sec. 3109. [Lower Yellowstone Project, Montana.]--** The Secretary may use funds appropriated to carry out the Missouri River recovery and mitigation program to assist the Bureau of Reclamation in the design and construction of the Lower Yellowstone project of the Bureau, Intake, Montana, for the purpose of ecosystem restoration.
**Sec. 3110. [Yellowstone River and Tributaries, Montana and North Dakota.]**
(a) Definition of Restoration Project.--In this section, the term “restoration project" means a project that will produce, in accordance with other Federal programs, projects, and activities, substantial ecosystem restoration and related benefits, as determined by the Secretary.
(b) Projects.--The Secretary shall carry out, in accordance with other Federal programs, projects, and activities, restoration projects in the watershed of the Yellowstone River and tributaries in Montana, and in North Dakota, to produce immediate and substantial ecosystem restoration and recreation benefits.
(c) Local Participation.--In carrying out subsection (b), the Secretary shall--

(1) consult with, and consider the activities being carried out by--
(A) other Federal agencies;
(B) Indian tribes;
(C) conservation districts; and
(D) the Yellowstone River Conservation District Council; and

(2) seek the participation of the State of Montana.

(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $30,000,000.
**Sec. 3111. [Antelope Creek, Lincoln, Nebraska.]--** The project for flood damage reduction, Antelope Creek, Lincoln, Nebraska, authorized by section 101(b)(19) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified--

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) to allow the non-Federal interest for the project to use, and to direct the Secretary to accept, funds provided under any other Federal program to satisfy, in whole or in part, the non-Federal share of the project if the Federal agency that provides such funds determines that the funds are authorized to be used to carry out the project.

**Sec. 3112. [Sand Creek Watershed, Wahoo, Nebraska.]--** The project for ecosystem restoration and flood damage reduction, Sand Creek watershed, Wahoo, Nebraska, authorized by section 101(b)(20) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified--

(1) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) toward the non-Federal share of the cost of the project or reimbursement for the costs of any work performed by the non-Federal interest for the project before the approval of the project partnership agreement, including work performed by the non-Federal interest in connection with the design and construction of 7 upstream detention storage structures;

(2) to require that in-kind work to be credited under paragraph (1) be subject to audit; and

(3) to direct the Secretary to accept advance funds from the non-Federal interest as needed to maintain the project schedule.

**Sec. 3113. [Western Sarpy and Clear Creek, Nebraska.]--** The project for ecosystem restoration and flood damage reduction, Western Sarpy and Clear Creek, Nebraska, authorized by section 101(b)(21) of the Water Resources Development Act of 2000 (114 Stat. 2578), is modified to authorize the Secretary to construct the project at a total cost of $21,664,000, with an estimated Federal cost of $14,082,000 and an estimated non-Federal cost of $7,582,000.

**Sec. 3114. [Lower Truckee River, McCarran Ranch, Nevada.]--** The maximum amount of Federal funds that may be expended for the project being carried out, as of the date of enactment of this Act, under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) for environmental restoration of McCarran Ranch, Nevada, shall be $5,775,000.

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**Sec. 3117. [Cooperative Agreements, New Mexico.]--** The Secretary may enter into cooperative agreements with any Indian tribe any land of which is located in the State of New Mexico and occupied by a flood control project that is owned and operated by the Corps of Engineers to assist in carrying out any operation or maintenance activity associated with the flood control project.

**Sec. 3118. [Middle Rio Grande Restoration, New Mexico.]**

(a) Restoration Projects Defined.--In this section, the term “restoration project" means a project that will produce, consistent with other Federal programs, projects, and activities, immediate and substantial ecosystem restoration and recreation benefits.

(b) Project Selection.-- The Secretary shall select and shall carry out restoration projects in the Middle Rio Grande from Cochiti Dam to the headwaters of Elephant Butte Reservoir in the State of New Mexico.

(c) Local Participation.-- In carrying out subsection (b), the Secretary shall consult with, and consider the activities being carried out by--

(1) the Middle Rio Grande Endangered Species Act Collaborative Program; and

(2) the Bosque Improvement Group of the Middle Rio Grande Bosque Initiative.

(d) Authorization of Appropriations.-- There is authorized to be appropriated $25,000,000 to carry out this section.

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**Sec. 3126. [Missouri River Restoration, North Dakota.]--** Section 707(a) of the Water Resources Development Act of 2000 (114 Stat. 2699) is amended in the first sentence by striking "$5,000,000" and all that follows through "2005" and inserting "$25,000,000".

**Sec. 3127. [Wahpeton, North Dakota.]--** The maximum amount of Federal funds that may be allotted for the project for flood damage reduction, Wahpeton, North Dakota, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), shall be $12,000,000.

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**Sec. 3132. [Arkansas River Corridor, Oklahoma.]**

(a) In General.-- The Secretary is authorized to participate in the ecosystem restoration, recreation, and flood damage reduction components of the Arkansas River Corridor Master Plan dated October 2005. The Secretary shall coordinate with appropriate representatives in the vicinity of Tulsa, Oklahoma, including representatives of Tulsa County and surrounding communities and the Indian Nations Council of Governments.

(b) Authorization of Appropriations.-- There is authorized to be appropriated $50,000,000 to carry out this section.

**Sec. 3133. [Lake Eufaula, Oklahoma.]**

(a) Project Goal.—

(1) In general.--The goal for operation of Lake Eufaula, Oklahoma, shall be to maximize the use of available storage in a balanced approach that incorporates advice from representatives from all the project purposes to ensure that the full value of the reservoir is realized by the United States.

(2) Recognition of purpose.--To achieve the goal described in paragraph (1), recreation is recognized as a project purpose at Lake Eufaula, pursuant to section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889).

(b) Lake Eufaula Advisory Committee.--

(1) In general.--In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), the Secretary shall establish an advisory committee for the Lake Eufaula, Canadian River, Oklahoma project authorized by the first section of the River and Harbor Act of July 24, 1946 (60 Stat. 635).

(2) Purpose.--The purpose of the committee shall be advisory only.

(3) Duties.--The committee shall provide information and recommendations to the Corps of Engineers regarding the operations of Lake Eufaula for the project purposes for Lake Eufaula.

(4) Composition.--The Committee shall be composed of members that equally represent the project purposes for Lake Eufaula.

(c) Reallocation Study.--

(1) In general.-- Subject to the appropriation of funds, the Secretary shall perform a reallocation study, at Federal expense, to develop and present recommendations concerning the best value, while minimizing ecological damages, for current and future use of the Lake Eufaula storage capacity for the authorized project purposes of flood control, water supply, hydroelectric power, navigation, fish and wildlife, and recreation.

(2) Factors for consideration.-- The reallocation study shall take into consideration the recommendations of the Lake Eufaula Advisory Committee.

(d) Pool Management Plan.--

(1) In general.-- Not later than one year after the date of enactment of this Act, to the extent feasible within available project funds and subject to the completion and approval of the reallocation study under subsection (c), the Tulsa district engineer, taking into consideration recommendations of the Lake Eufaula Advisory Committee, shall develop an interim management plan that accommodates all project purposes for Lake Eufaula.

(2) Modifications.-- A modification of the plan under paragraph (1) shall not cause significant adverse impacts on any existing permit, lease, license, contract, public law, or project purpose, including flood control operation, relating to Lake Eufaula.

**Sec. 3134. [Oklahoma Lakes Demonstration Program, Oklahoma.].**

(a) Implementation of Program.--Not later than one year after the date of enactment of this Act, the Secretary shall implement an innovative program at the lakes located primarily in the State of Oklahoma that are a part of an authorized civil works project under the administrative jurisdiction of the Corps of Engineers for the purpose of demonstrating the benefits of enhanced recreation facilities and activities at those lakes.

(b) Requirements.--In implementing the program under subsection (a), the Secretary, consistent with authorized project purposes, shall--

(1) pursue strategies that will enhance, to the maximum extent practicable, recreation experiences at the lakes included in the program;

(2) use creative management strategies that optimize recreational activities; and

(3) ensure continued public access to recreation areas located on or associated with the civil works project.

(c) Guidelines.--Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines for the implementation of this section, to be developed in coordination with the State of Oklahoma.

(d) Report.--

(1) In general.--Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the program under subsection (a).

(2) Inclusions.--The report under paragraph (1) shall include a description of the projects undertaken under the program, including—

(A) an estimate of the change in any related recreational opportunities;

(B) a description of any leases entered into, including the parties involved; and

(C) the financial conditions that the Corps of Engineers used to justify those leases.

(3) Availability to public.--The Secretary shall make the report available to the public in electronic and written formats.

(e) Termination.--The authority provided by this section shall terminate on the date that is 10 years after the date of enactment of this Act.

**Sec. 3135. [Ottawa County, Oklahoma.]**

(a) In General.--There is authorized to be appropriated $30,000,000 for the purposes set forth in subsection (b).

(b) Purposes.--Notwithstanding any other provision of law, funds appropriated under subsection (a) may be used for the purpose of--

(1) the buyout of properties and permanently relocating residents and businesses in or near Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties; and

(2) providing funding to the State of Oklahoma to buyout properties and permanently relocate residents and businesses of Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties.

(c) Limitation.--The use of funds in accordance with subsection (b) shall not be considered to be part of a federally assisted program or project for purposes of Public Law 91-646 (42 U.S.C. 4601 et seq.), consistent with section 2301 of Public Law 109-234 (120 Stat. 455).

(d) Consistency with State Program.--Any actions taken under subsection (b) shall be consistent with the relocation program in the State of Oklahoma under 27A O.S. Supp. 2006, sections 2201 et seq.

(e) Consideration of Remedial Action.--The Administrator of the Environmental Protection Agency shall consider, without delay, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) for the Tar Creek, Oklahoma, National Priorities List site that includes permanent relocation of residents consistent with the program currently being administered by the State of Oklahoma. Such relocation shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(f) Estimating Costs.--In estimating and comparing the cost of a remedial alternative for the Tar Creek Oklahoma, National Priorities List site that includes the permanent relocation of residents, the Administrator shall not include the cost of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(g) Effect of Certain Remedies.--Inclusion of subsidence remedies, such as permanent relocation within any remedial action, shall not preempt, alter, or delay the right of any sovereign entity, including any State or tribal government, to seek remedies, including abatement, for land subsidence and subsidence risks under State law.

(h) Amendment.-- Section 111 of Public Law 108-137 (117 Stat. 1835) is amended--

(1) by adding at the end of subsection (a) the following:

"Such activities also may include the provision of financial assistance to facilitate the buy out of properties located in areas identified by the State as areas that are or will be at risk of damage caused by land subsidence and associated properties otherwise identified by the State. Any buyout of such properties shall not be considered to be part of a federally assisted program or project for purposes of Public Law 91-646 (42 U.S.C. 4601 et seq.), consistent with section 2301 of Public Law 109-234 (120 Stat. 455-456)."; and

(2) by striking the first sentence of subsection (d) and inserting the following: "Non-Federal interests shall be responsible for operating and maintaining any restoration alternatives constructed or carried out pursuant to this section.".

**Sec. 3136. [Red River Chloride Control, Oklahoma and Texas.]--** The project for water quality control in the Arkansas and Red River Basin, Texas, Oklahoma, and Kansas, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1420) and modified by section 1107(a) of the Water Resources Development A of 1986 (100 Stat. 4229) is further modified to direct

the Secretary to provide operation and maintenance for the Red River Chloride Control project, Oklahoma and Texas, at Federal expense.

**Sec. 3137. [Waurika Lake, Oklahoma.]--** The remaining obligation of the Waurika Project Master Conservancy District payable to the United States Government in the amounts, rates of interest, and payment schedules--

(1) is set at the amounts, rates of interest, and payment schedules that existed on June 3, 1986, with respect to the project for Waurika Lake, Oklahoma; and

(2) may not be adjusted, altered, or changed without a specific, separate, and written agreement between the District and the United States.

**Sec. 3138. [Upper Willamette River Watershed Ecosystem Restoration, Oregon.]**

(a) In General.-- The Secretary shall conduct studies and ecosystem restoration projects for the upper Willamette River watershed from Albany, Oregon, to the headwaters of the Willamette River and tributaries.

(b) Consultation.-- The Secretary shall carry out ecosystem restoration projects under this section for the Upper Willamette River watershed in consultation with the Governor of the State of Oregon, the heads of appropriate Indian tribes, the Environmental Protection Agency, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Bureau of Land Management, the Forest Service, and local entities.

(c) Authorized Activities.-- In carrying out ecosystem restoration projects under this section, the Secretary shall undertake activities necessary to protect, monitor, and restore fish and wildlife habitat.

(d) Priority.-- In carrying out this section, the Secretary shall give priority to a project to restore the millrace in Eugene, Oregon, and shall include noneconomic benefits associated with the historical significance of the millrace and associated with preservation and enhancement of resources in evaluating the benefits of the project.

(e) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $15,000,000.

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**Sec. 3146. [Missouri River Restoration, South Dakota.]**

(a) Membership.-- Section 904(b)(1)(B) of the Water Resources Development Act of 2000 (114 Stat. 2708) is amended--

(1) in clause (vii) by striking “and” at the end;

(2) by redesignating clause (viii) as clause (ix); and

(3) by inserting after clause (vii) the following:

“(viii) rural water systems; and".

(b) Reauthorization.-- Section 907(a) of such Act (114 Stat. 2712) is amended in the first sentence by striking “2005” and inserting “2010”.

**Sec. 3147. [Cedar Bayou, Texas.]**

(a) Credit for Planning and Design.--The project for navigation, Cedar Bayou, Texas, reauthorized by section 349(a)(2) of the Water Resources Development Act of 2000 (114 Stat. 2632), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(b) Cost Sharing.--Cost sharing for construction and operation and maintenance of the project shall be determined in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).
(c) Project for Navigation.--Section 349(a)(2) of the Water Resources Development Act of 2000 (114 Stat. 2632) is amended by striking "12 feet deep by 125 feet wide" and inserting "that is 10 feet deep by 100 feet wide".

**Sec. 3148. [Freeport Harbor, Texas.]**

(a) In General.--The project for navigation, Freeport Harbor, Texas, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818), is modified to provide that--

(1) all project costs incurred as a result of the discovery of the sunken vessel COMSTOCK of the Corps of Engineers are a Federal responsibility; and

(2) the Secretary shall not seek further obligation or responsibility for removal of the vessel COMSTOCK, or costs associated with a delay due to the discovery of the sunken vessel COMSTOCK, from the Port of Freeport.

(b) Cost Sharing.--This section does not affect the authorized cost sharing for the balance of the project described in subsection (a).

**Sec. 3149. [Lake Kemp, Texas.]**

(a) In General.--The Secretary may not take any legal or administrative action seeking to remove a Lake Kemp improvement before the earlier of January 1, 2020, or the date of any transfer of ownership of the improvement occurring after the date of enactment of this Act.
(b) Limitation on Liability.--The United States, or any of its officers, agents, or assignees, shall not be liable for any injury, loss, or damage accruing to the owners of a Lake Kemp improvement, their lessees, or occupants as a result of any flooding or inundation of such improvements by the waters of the Lake Kemp reservoir, or for such injury, loss, or damage as may occur through the operation and maintenance of the Lake Kemp dam and reservoir in any manner.
(c) Lake Kemp Improvement Defined.--In this section, the term "Lake Kemp improvement" means an improvement (including dwellings) located within the flowage easement of Lake Kemp, Texas, below elevation 1159 feet mean sea level.

**Sec. 3150. [Lower Rio Grande Basin, Texas.]--** The project for flood control, Lower Rio Grande Basin, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125), is modified--

(1) to include as part of the project flood protection works to reroute drainage to Raymondville Drain constructed by the non-Federal interests in Hidalgo County in the vicinity of Edinburg, Texas, if the Secretary determines that such work is feasible;

(2) to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(3) to direct the Secretary in calculating the non-Federal share of the cost of the project, to make a determination, within 180 days after the date of enactment of this Act, under section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) on the non-Federal interest's ability to pay.

**Sec. 3151. [North Padre Island, Corpus Christi, Texas.]--** The project for ecosystem restoration and storm damage reduction, North Padre Island, Corpus Christi Bay, Texas,

authorized by section 556 of the Water Resources Development Act of 1999 (113 Stat. 353), is modified to include recreation as a project purpose.

**Sec. 3152. [Pat Mayse Lake, Texas.]--** The Secretary is directed to accept from the city of Paris, Texas, $3,461,432 as payment in full of monies owed to the United States for water supply storage space in Pat Mayse Lake, Texas, under contract number DA-34-066-CIVENG-65-1272, including accrued interest.

**Sec. 3153. [Proctor Lake, Texas.**]-- The Secretary is authorized to purchase fee simple title to all properties located within the boundaries, and necessary for the operation, of the Proctor Lake project, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259).

**Sec. 3154. [San Antonio Channel, San Antonio, Texas.]--** The project for flood control, San Antonio Channel, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259) as part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers in Texas and modified by section 103 of the Water Resources Development Act of 1976 (90 Stat. 2921) and section 335 of the Water Resources Development Act of 2000 (114 Stat. 2611), is modified to authorize the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project.

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**Sec. 3164. [McNary Lock and Dam, McNary National Wildlife Refuge, Washington and Idaho.]**

(a) Transfer of Administrative Jurisdiction.--Administrative jurisdiction over the land acquired for the McNary Lock and Dam project and managed by the United States Fish and Wildlife Service under cooperative agreement number DACW68-4-00-13 with the Corps of Engineers, Walla Walla District, is transferred from the Secretary to the Secretary of the Interior.

(b) Easements.--The transfer of administrative jurisdiction under paragraph (1) shall be subject to easements in existence as of the date of enactment of this Act on land subject to the transfer.

(c) Rights of Secretary.--

(1) In general.--Except as provided in subparagraph (C), the Secretary shall retain rights described in subparagraph (B) with respect to the land for which administrative jurisdiction is transferred under paragraph (1).

(2) Rights.--The rights of the Secretary referred to in paragraph (1) are the rights--

(A) to flood land described in subsection (a) to the standard project flood elevation;

(B) to manipulate the level of the McNary project pool;

(C) to access land described in subsection (a) as may be required to install, maintain, and inspect sediment ranges and carry out similar activities;

(D) to construct and develop wetland, riparian habitat, or other environmental restoration features authorized by section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) and section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330);

(E) to dredge and deposit fill materials; and

(F) to carry out management actions for the purpose of reducing the take of juvenile salmonids by avian colonies that inhabit, before, on, or after the date of enactment of this Act, any island included in the land described in subsection (a).

(3) Coordination.--Before exercising a right described in any of subparagraphs (C) through (F) of paragraph (2), the Secretary shall coordinate the exercise with the Director of the United States Fish and Wildlife Service.

(d) Management.--

(1) In general.--The land described in subsection (a) shall be managed by the Secretary of the Interior as part of the McNary National Wildlife Refuge.

(2) Cummins property.--

(A) Retention of credits.--Habitat unit credits described in the memorandum entitled "Design Memorandum No. 6, LOWER SNAKE RIVER FISH AND WILDLIFE COMPENSATION PLAN, Wildlife Compensation and Fishing Access Site Selection, Letter Supplement No. 15, SITE DEVELOPMENT PLAN FOR THE WALLULA HMU" provided for the Lower Snake River Fish and Wildlife Compensation Plan through development of the parcel of land formerly known as the "Cummins property" shall be retained by the Secretary despite any changes in management of the parcel on or after the date of enactment of this Act.

(B) Site development plan.--The Director shall obtain prior approval of the Washington State department of fish and wildlife for any change to the previously approved site development plan for the parcel of land formerly known as the "Cummins property".

(3) Madame Dorian Recreation Area.--The Director shall continue operation of the Madame Dorian Recreation Area for public use and boater access.

(e) Administrative Costs.--The Director shall be responsible for all survey, environmental compliance, and other administrative costs required to implement the transfer of administrative jurisdiction under subsection (a).

**Sec. 3165. [Snake River Project, Washington and Idaho.]**

(a) In General.--The fish and wildlife compensation plan for the Lower Snake River, Washington and Idaho, as authorized by section 102 of the Water Resources Development Act of 1976 (90 Stat. 2921), is amended to authorize the Secretary to conduct studies and implement aquatic and riparian ecosystem restorations and improvements specifically for fisheries and wildlife.

(b) Authorization of Appropriations.--There is authorized to be appropriated $5,000,000 to carry out this section.

**Sec. 3166. [Yakima River, Port of Sunnyside, Washington.]--** The project for aquatic ecosystem restoration, Yakima River, Port of Sunnyside, Washington, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

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**Sec. 3179. [Continuation of Project Authorizations.]**

(a) In General.--Notwithstanding section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)), the following projects shall remain authorized to be carried out by the Secretary:

(1) The project for navigation, **Sacramento Deep Water Ship Channel, California,** authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092).
(2) The project for flood control, **Agana River, Guam**, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4127).

* * * * *

(b) Limitation.--A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period beginning on the date of enactment of this Act, unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

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**Sec. 3181. [Project Deauthorizations.]**
(a) In General.--The following projects are not authorized after the date of enactment of this Act:

* * * * *

(8) **City Waterway, Tacoma, Washington**.--The portion of the project for navigation, City Waterway, Tacoma, Washington, authorized by the first section of the River and Harbor Appropriations Act of June 13, 1902 (32 Stat. 347), consisting of the last 1,000 linear feet of the inner portion of the waterway beginning at station 70+00 and ending at station 80+00.

* * * * *

(10) **Whatcom Creek Waterway, Bellingham, Washington**.-- The portion of the project for navigation, Whatcom Creek Waterway, Bellingham, Washington, authorized by the River and Harbor Act of June 25, 1910 (36 Stat. 664), and section 101 of the River and Harbor Act of 1958 (72 Stat. 299), consisting of the last 2,900 linear feet of the inner portion of the waterway and beginning at station 29+00 to station 0+00.

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(20) The project for the **Columbia River, Seafarers Memorial, Hammond, Oregon**, authorized by title I of the Energy and Water Development Appropriations Act, 1991 (104 Stat. 2078).

* * * * *

(23) The structural portion of the project for flood control, **Cypress Creek, Texas,** authorized by section 3(a)(13) of the Water Resources Development Act of 1988 (102 Stat. 4014).
(24) The project for flood protection, **East Fork Channel Improvement, Increment 2, East Fork of the Trinity River, Texas**, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).
(25) The project for flood control, **Falfurrias, Texas**, authorized by section 3(a)(14) of the Water Resources Development Act of 1988 (102 Stat. 4014).
(26) The project for flood control, **Pecan Bayou Lake, Texas,** authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742).
(27) The project for navigation improvements affecting **Lake of the Pines, Texas,** for the portion of the Red River below Fulton, Arkansas, authorized by the Act of July 13, 1892 (27 Stat. 103) and modified by the Act of July 24, 1946 (60 Stat. 635), the Act of May 17, 1950 (64 Stat. 163), and the River and Harbor Act of 1968 (82 Stat. 731).

(28) The project for navigation, **Tennessee Colony Lake, Trinity River, Texas**, authorized by section 204 of the River and Harbor Act of 1965 (79 Stat. 1091).

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**Sec. 3182. [Land Conveyances.]**

* * * * *

(g) **Boardman, Oregon**.--Section 501(g)(1) of the Water Resources Development Act of 1996 (110 Stat. 3751) is amended--

(1) by striking “city of Boardman," and inserting “the Boardman Park and Recreation District, Boardman,"; and

(2) by striking “such city" and inserting “the city of Boardman".

(h) **Lookout Point Project, Lowell, Oregon**.--

(1) In general.--The Secretary may convey without consideration to Lowell School District, by quitclaim deed, all right, title, and interest of the United States in and to land and buildings thereon, known as Tract A-82, located in Lowell, Oregon, and described in paragraph (2).

(2) Description of property.--The parcel of land authorized to be conveyed under paragraph (1) is as follows: Commencing at the point of intersection of the west line of Pioneer Street with the westerly extension of the north line of Summit Street, in Meadows Addition to Lowell, as platted and recorded at page 56 of Volume 4, Lane County Oregon Plat Records; thence north on the west line of Pioneer Street a distance of 176.0 feet to the true point of beginning of this description; thence north on the west line of Pioneer Street a distance of 170.0 feet; thence west at right angles to the west line of Pioneer Street a distance of 250.0 feet; thence south and parallel to the west line of Pioneer Street a distance of 170.0 feet; thence east 250.0 feet to the true point of beginning of this description in Section 14, Township 19 South, Range 1 West of the Willamette Meridian, Lane County, Oregon.

(3) Terms and conditions.--Before conveying the parcel to the school district, the Secretary shall ensure that the conditions of buildings and facilities meet the requirements of applicable Federal law.

(4) Reversion.--If the Secretary determines that the property conveyed under paragraph (1) ceases to be held in public ownership, all right, title, and interest in and to the property shall revert to the United States, at the option of the United States.

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(j) **Denison, Texas**.--

(1) In general.--Not later than 90 days after the date of enactment of this Act, the Secretary shall offer to convey at fair market value to the city of Denison, Texas, all right, title, and interest of the United States in and to the approximately 900 acres of land located in Grayson County, Texas, which is currently subject to an application for lease for public park and recreational purposes made by the city of Denison, dated August 17, 2005.

(2) Survey to obtain legal description.--The exact acreage and description of the real property referred to in paragraph (1) shall be determined by a survey paid for by the city of Denison, Texas, that is satisfactory to the Secretary.

(3) Conveyance.--Not later than 90 days after the date of acceptance by the city of Denison, Texas, of an offer under paragraph (1), the Secretary shall convey the land surveyed under paragraph (2) by quitclaim deed to the city of Denison, Texas.

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**Sec. 3183. [Extinguishment of Reversionary Interests and Use Restrictions.]**

(a) **Idaho**.--

(1) In general.--With respect to the property covered by each deed in paragraph (2)—

(A) the reversionary interests and use restrictions relating to port and industrial use purposes are extinguished;

(B) the restriction that no activity shall be permitted that will compete with services and facilities offered by public marinas is extinguished; and

(C) the human habitation or other building structure use restriction is extinguished if the elevation of the property is above the standard project flood elevation.

(2) Affected deeds.--The deeds with the following county auditor's file numbers are referred to in paragraph (1):

(A) Auditor's Instrument No. 399218 of Nez Perce County, Idaho--2.07 acres.

(B) Auditor's Instrument No. 487437 of Nez Perce County, Idaho--7.32 acres.

(b) **Lake Texoma, Oklahoma**.--

(1) Release.--Any reversionary interest relating to public parks and recreation on the land conveyed by the Secretary to the State of Oklahoma at Lake Texoma pursuant to the Act entitled “An Act to authorize the sale of certain lands to the State of Oklahoma" (67 Stat. 63), shall terminate on the date of enactment of this Act.

(2) Instrument of release.--As soon as practicable after the date of enactment of this Act, the Secretary shall execute and file in the appropriate office a deed of release, an amended deed, or any other appropriate instrument to release each reversionary interest to which paragraph (1) applies.

(3) Preservation of reserved rights.--A release of a reversionary interest under this subsection shall not affect any other right of the United States in any deed of conveyance pursuant to the Act referred to in paragraph (1).

(c) **Lowell, Oregon**.--

(1) Release and extinguishment of deed reservations.--

(A) Release and extinguishment of deed reservations.--The Secretary may release and extinguish the deed reservations for access and communication cables contained in the quitclaim deed, dated January 26, 1965, and recorded February 15, 1965, in the records of Lane County, Oregon; except that such reservations may only be released and extinguished for the lands owned by the city of Lowell as described in the quitclaim deed, dated April 11, 1991, in such records.

(B) Additional release and extinguishment of deed reservations.--The Secretary may also release and extinguish the same deed reservations referred to in subparagraph (A) over land owned by Lane County, Oregon, within the city limits of Lowell, Oregon, to accommodate the development proposals of the city of Lowell/St. Vincent de Paul, Lane County, affordable housing project; except that the Secretary may require, at no cost to the United States--

(i) the alteration or relocation of any existing facilities, utilities, roads, or similar improvements on such lands; and

(ii) the right-of-way for such facilities, utilities, roads, or improvements as a precondition of any release or extinguishment of the deed reservations.

(2) Conveyance.--The Secretary may convey to the city of Lowell, Oregon, the parcel of land situated in the city of Lowell, Oregon, at fair market value consisting of the strip of

federally owned lands located northeast of West Boundary Road between Hyland Lane and the city of Lowell's eastward city limits.

(3) Administrative cost.--Notwithstanding paragraphs (1) and (2), the city of Lowell, Oregon, shall pay the administrative costs incurred by the United States to execute the release and extinguishment of the deed reservations under paragraph (1) and the conveyance under paragraph (2).

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(e) **Lower Granite Pool, Washington**.--

(1) Extinguishment of reversionary interests and use restrictions.--With respect to property covered by each deed described in paragraph (2)--

(A) the reversionary interests and use restrictions relating to port or industrial purposes are extinguished; and

(B) the human habitation or other building structure use restriction is extinguished in each area in which the elevation is above the standard project flood elevation.

(2) Deeds.--The deeds referred to in paragraph (1) are as follows:

(A) Auditor's File Numbers 432576, 443411, 499988, and 579771 of Whitman County, Washington.

(B) Auditor's File Numbers 125806, 138801, 147888, 154511, 156928, and 176360 of Asotin County, Washington.

(f) **Port of Pasco, Washington**.--

(1) Extinguishment of use restrictions and flowage easement.--With respect to the property covered by the deed in paragraph (3)(A)--

(A) the flowage easement and human habitation or other building structure use restriction is extinguished if the elevation of the property is above the standard project flood elevation; and

(B) the use of fill material to raise areas of the property above the standard project flood elevation is authorized, except in any area for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is required.

(2) Extinguishment of flowage easement.--With respect to the property covered by each deed in paragraph (3)(B), the flowage easement is extinguished if the elevation of the property is above the standard project flood elevation.

(3) Affected deeds.--The deeds referred to in paragraphs (1) and (2) are as follows:

(A) Auditor's File Number 262980 of Franklin County, Washington.

(B) Auditor's File Numbers 263334 and 404398 of Franklin County, WA.

(g) No Effect on Other Rights.--Nothing in this section affects the remaining rights and interests of the Corps of Engineers for authorized project purposes.

**TITLE IV--STUDIES**

* * * * *

**Sec. 4003. [Southwestern United States Drought Study.]**

(a) In General.--The Secretary, in coordination with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and other appropriate agencies, shall conduct, at Federal expense, a comprehensive study of drought conditions in the southwestern United States, with particular emphasis on the Colorado River basin, the Rio Grande River basin, and the Great Basin.

(b) Inventory of Actions.--In conducting the study, the Secretary shall assemble an inventory of actions taken or planned to be taken to address drought-related situations in the southwestern United States.
(c) Purpose.--The purpose of the study shall be to develop recommendations to more effectively address current and future drought conditions in the southwestern United States.
(d) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary to carry out this section $7,000,000. Such funds shall remain available until expended.

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**Sec. 4006. [Fire Island, Alaska.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigational improvements, including a barge landing facility, Fire Island, Alaska.
**Sec. 4007. [Knik Arm, Cook Inlet, Alaska.]--** The Secretary shall conduct a study to determine the potential impacts on navigation of construction of a bridge across Knik Arm, Cook Inlet, Alaska.
**Sec. 4008. [Kuskokwim River, Alaska.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigation, Kuskokwim River, Alaska, in the vicinity of the village of Crooked Creek.
**Sec. 4009. [Nome Harbor, Alaska.]--** The Secretary shall review the project for navigation, Nome Harbor improvements, Alaska, authorized by section 101(a)(1) of the Water Resources Development Act of 1999 (113 Stat. 273), to determine whether the project cost increases, including the cost of rebuilding the entrance channel damaged in a September 2005 storm, resulted from a design deficiency.
**Sec. 4010. [St. George Harbor, Alaska.]--** The Secretary shall conduct a study to determine the feasibility of providing navigation improvements at St. George Harbor, Alaska.
**Sec. 4011. [Susitna River, Alaska.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for hydropower, recreation, and related purposes on the Susitna River, Alaska.
**Sec. 4012. [Valdez, Alaska.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for navigation, Valdez, Alaska, and if the Secretary determines that the project is feasible, shall carry out the project at a total cost of $20,000,000.
**Sec. 4013. [Gila Bend, Maricopa, Arizona.]**

(a) In General.--The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Gila Bend, Maricopa, Arizona.
(b) Review of Plans.--In conducting the study, the Secretary shall review plans and designs developed by non-Federal interests and shall incorporate such plans and designs into the Federal study if the Secretary determines that such plans and designs are consistent with Federal standards.

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**Sec. 4015. [Aliso Creek, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for streambank protection and environmental restoration along Aliso Creek, California.
**Sec. 4016. [Fresno, Kings, and Kern Counties, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Fresno, Kings, and Kern Counties, California.
**Sec. 4017. [Fruitvale Avenue Railroad Bridge, Alameda, California.]**

(a) In General.-- The Secretary shall prepare a comprehensive report that examines the condition of the existing Fruitvale Avenue Railroad Bridge, Alameda County, California (referred to in this section as the “Railroad Bridge"), and determines the most economic means to maintain that rail link by either repairing or replacing the Railroad Bridge.

(b) Requirements.-- The report under this section shall include--

(1) a determination of whether the Railroad Bridge is in immediate danger of failing or collapsing;

(2) the annual costs to maintain the Railroad Bridge;

(3) the costs to place the Railroad Bridge in a safe, “no-collapse" condition, such that the Railroad Bridge will not endanger maritime traffic;

(4) the costs to retrofit the Railroad Bridge such that the Railroad Bridge may continue to serve as a rail link between the Island of Alameda and the mainland; and

(5) the costs to construct a replacement for the Railroad Bridge capable of serving the current and future rail, light rail, and homeland security needs of the region.

(c) Submission of Report.-- The Secretary shall--

(1) complete the Railroad Bridge report under subsection (a) not later than 180 days after the date of enactment of this Act; and

(2) submit the report to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives.

(d) Limitations.-- The Secretary shall not--

(1) demolish the Railroad Bridge or otherwise render the Railroad Bridge unavailable or unusable for rail traffic; or

(2) reduce maintenance of the Railroad Bridge.

(e) Easement.--

(1) In general.-- The Secretary shall provide to the city of Alameda, California, a nonexclusive access easement over the Oakland Estuary that comprises the subsurface land and surface approaches for the Railroad Bridge that--

(A) is consistent with the Bay Trail Proposal of the city of Oakland; and

(B) is otherwise suitable for the improvement, operation, and maintenance of the Railroad Bridge or construction, operation, and maintenance of a suitable replacement bridge.

(2) Cost.-- The easement under paragraph (1) shall be provided to the city of Alameda without consideration and at no cost to the United States.

**Sec. 4018. [Los Angeles River Revitalization Study, California.]**

(a) In General.-- The Secretary, in coordination with the city of Los Angeles, shall--

(1) prepare a feasibility study for environmental ecosystem restoration, flood control, recreation, and other aspects of Los Angeles River revitalization that is consistent with the goals of the Los Angeles River Revitalization Master Plan published by the city of Los Angeles; and

(2) consider any locally-preferred project alternatives developed through a full and open evaluation process for inclusion in the study.

(b) Use of Existing Information and Measures.--In preparing the study under subsection (a), the Secretary shall use, to the maximum extent practicable--

(1) information obtained from the Los Angeles River Revitalization Master Plan; and

(2) the development process of that plan.

(c) Demonstration Projects.--

(1) In general.--The Secretary is authorized to construct demonstration projects in order to provide information to develop the study under subsection (a)(1).
(2) Federal share.--The Federal share of the cost of any project under this subsection shall be not more than 65 percent.
(3) Authorization of appropriations.--There is authorized to be appropriated to carry out this subsection $25,000,000.

**Sec. 4019. [Lytle Creek, Rialto, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction and groundwater recharge, Lytle Creek, Rialto, California.

**Sec. 4020. [Mokelumne River, San Joaquin County, California.]**

(a) In General.-- The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply along the Mokelumne River, San Joaquin County, California.

(b) Limitation on Statutory Construction.-- Nothing in this section shall be construed to invalidate, preempt, or create any exception to State water law, State water rights, or Federal or State permitted activities or agreements.

**Sec. 4021. [Orick, California.]**

(a) In General.--The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction and ecosystem restoration, Orick, California.

(b) Feasibility of Restoring or Rehabilitating Redwook Creek Levees.--In conducting the study, the Secretary shall determine the feasibility of restoring or rehabilitating the Redwood Creek Levees, Humboldt County, California.

**Sec. 4022. [Shoreline Study, Oceanside, California.]—**Sec. 414 of the Water Resources Development Act of 2000 (114 Stat. 2636) is amended by striking “32 months” and inserting “44 months”.

**Sec. 4023. [Rialto, Fontana, and Colton, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Rialto, Fontana, and Colton, California.

**Sec. 4024. [Sacramento River, California.]--** The Secretary shall conduct a comprehensive study to determine the feasibility of, and alternatives for, measures to protect water diversion facilities and fish protective screen facilities in the vicinity of river mile 178 on the Sacramento River, California.

**Sec. 4025. [San Diego California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, San Diego County, California, including a review of the feasibility of connecting 4 existing reservoirs to increase usable storage capacity.

**Sec. 4026. [San Francisco Bay, Sacramento-San Joaquin Delta, California.]**

(a) In General.--The Secretary shall conduct a study to determine the feasibility of the beneficial use of dredged material from the San Francisco Bay in the Sacramento-San Joaquin Delta, California, including the benefits and impacts of salinity in the Delta and the benefits to navigation, flood damage reduction, ecosystem restoration, water quality, salinity control, water supply reliability, and recreation.

(b) Cooperation.--In conducting the study, the Secretary shall cooperate with the California department of water resources and appropriate Federal and State entities in developing options for the beneficial use of dredged material from San Francisco Bay for the Sacramento-San Joaquin Delta area.

(c) Review.--The study shall include a review of the feasibility of using Sherman Island as a rehandling site for levee maintenance material, as well as for ecosystem restoration. The review

may include carrying out and monitoring a pilot project using up to 150,000 cubic yards of dredged material and being carried out at the Sherman Island site, examining larger scale use of dredged materials from the San Francisco Bay and Suisun Bay Channel, and analyzing the feasibility of the potential use of saline materials from the San Francisco Bay for both rehandling and ecosystem restoration purposes.

**Sec. 4027. [South San Francisco Bay Shoreline, California.]**

(a) In General.--The Secretary, in cooperation with non-Federal interests, shall conduct a study of the feasibility of carrying out a project for--

(1) flood damage reduction along the South San Francisco Bay shoreline, California;

(2) restoration of the South San Francisco Bay salt ponds (including on land owned by other Federal agencies); and

(3) other related purposes, as the Secretary determines to be appropriate.

(b) Report.--

(1) In general.--Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

(2) Inclusions.--The report under paragraph (1) shall include recommendations of the Secretary with respect to the project described in subsection (a) based on planning, design, and land acquisition documents prepared by--

(A) the California State Coastal Conservancy;

(B) the Santa Clara Valley Water District; and

(C) other local interests.

(c) Credit.--

(1) In general.--In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), and subject to paragraph (2), the Secretary shall credit toward the non-Federal share of the cost of any project authorized by law as a result of the South San Francisco Bay shoreline study--

(A) the cost of work performed by the non-Federal interest in preparation of the feasibility study that is conducted before the date of the feasibility cost sharing agreement; and

(B) the funds expended by the non-Federal interest for acquisition costs of land that constitutes a part of such a project and that is owned by the United States Fish and Wildlife Service.

(2) Conditions.--The Secretary may provide credit under paragraph (1) if--

(A) the value of all or any portion of land referred to in paragraph (1)(B) that would be subject to the credit has not previously been credited to the non-Federal interest for a project; and

(B) the land was not acquired to meet any mitigation requirement of the non-Federal interest.

**Sec. 4028. [Twentynine Palms, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out projects for flood damage reduction in the vicinity of Twentynine Palms, California.

**Sec. 4029. [Yucca Valley, California.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Burnt Mountain basin, in the vicinity of Yucca Valley, California.

**Sec. 4030. Selenium Studies, Colorado.]**

(a) In General.--The Director of the United States Geological Survey, in consultation with State water quality and resource and conservation agencies, shall conduct regional and watershed-wide studies to address selenium concentrations in the State of Colorado, including
studies--

(1) to measure selenium on specific sites; and

(2) to determine whether specific selenium measures studied should be recommended for use in demonstration projects.

(b) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $5,000,000.

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**Sec. 4038. [Boise River, Idaho.]--** The study for flood control, Boise River, Idaho, authorized by section 414 of the Water Resources Development Act of 1999 (113 Stat. 324), is modified--

(1) to add ecosystem restoration and water supply as project purposes to be studied; and

(2) to require the Secretary to credit toward the non-Federal share of the cost of the study the cost, not to exceed $500,000, of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

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**Sec. 4073. [Ecosystem Restoration and Fish Passage Improvement Oregon.]**

(a) Study.-- The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and fish passage improvements on rivers throughout the State of Oregon.

(b) Requirements.--In carrying out the study, the Secretary shall—

(1) work in coordination with the State of Oregon, local governments, and other Federal agencies; and

(2) place emphasis on--

(A) fish passage and conservation and restoration strategies to benefit species that are listed or proposed for listing as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) other watershed restoration objectives.

(c) Pilot Program.--

(1) In general.--In conjunction with conducting the study under subsection (a), the Secretary may carry out pilot projects to demonstrate the effectiveness of ecosystem restoration and fish passages.

(2) Authorization of appropriations.--There is authorized to be appropriated $5,000,000 to carry out this subsection.

**Sec. 4074. [Walla Walla River Basin, Oregon.]--** In conducting the study of determine the feasibility of carrying out a project for ecosystem restoration, Walla Walla River basin, Oregon, the Secretary shall--

(1) credit toward the non-Federal share of the cost of the study the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project; and

(2) allow the non-Federal interest to provide the non-Federal share of the cost of the study in the form of in-kind services and materials.

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**Sec. 4090. [Abilene, Texas.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply, Abilene, Texas.

**Sec. 4091. [Coastal Texas Ecosystem Protection and Restoration, Texas.]**

(a) In General.--The Secretary shall develop a comprehensive plan to determine the feasibility of carrying out projects for flood damage reduction, hurricane and storm damage reduction, and ecosystem restoration in the coastal areas of the State of Texas.

(b) Scope.--The comprehensive plan shall provide for the protection, conservation, and restoration of wetlands, barrier islands, shorelines, and related lands and features that protect critical resources, habitat, and infrastructure from the impacts of coastal storms, hurricanes, erosion, and subsidence.

(c) Definition.--For purposes of this section, the term ``coastal areas in the State of Texas'' means the coastal areas of the State of Texas from the Sabine River on the east to the Rio Grande River on the west and includes tidal waters, barrier islands, marshes, coastal wetlands, rivers and streams, and adjacent areas.

**Sec. 4092. [Port of Galveston, Texas.]--** The Secretary shall conduct a study of the feasibility of carrying out a project for dredged material disposal in the vicinity of the project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1996 (110 Stat. 3666).

**Sec. 4093. [Grand County and Moab, Utah.]--** The Secretary shall conduct a study to determine the feasibility of carrying out a project for water supply for Grand County and the city of Moab, Utah, including a review of the impact of current and future demands on the Spanish Valley Aquifer.

**Sec. 4094. [Southwestern Utah.].** The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, Santa Clara River, Washington, Iron, and Kane Counties, Utah.

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**Sec 4096. [Elliott Bay Seawall, Seattle, Washington.]**

(a) In General.--The study for rehabilitation of the Elliott Bay Seawall, Seattle, Wa., being carried out under Committee Resolution 2704 of the Committee on Transportation and Infrastructure of the House of Representatives adopted Sept. 25, 2002, is modified to include a determination of the feasibility of reducing future damage to the seawall from seismic activity.

(b) Acceptance of Contributions.--In carrying out the study, the Secretary may accept contributions in excess of the non-Federal share of the cost of the study from the non-Federal interest to the extent that the Secretary determines that the contributions will facilitate completion of the study.

(c) Credit.--The Secretary shall credit toward the non-Federal share of the cost of any project authorized by law as a result of the study the value of contributions accepted by the Secretary under subsection (b).

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**TITLE V--MISCELLANEOUS**

**Sec. 5001. [Maintenance of Navigation Channels.]**

(a) In General.--Upon request of a non-Federal interest, the Secretary shall be responsible for maintenance of the following navigation channels and breakwaters constructed or improved by the non-Federal interest if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel or breakwater was constructed in accordance with applicable permits and appropriate engineering and design standards:

* * * * *

(7) Houston Ship Channel, Bayport Cruise Channel and Bayport Cruise turning basin, as part of the existing **Bayport Channel, Texas.**

(8) Pix Bayou Navigation Channel, **Chambers County, Texas**.

(9) Jacintoport Channel at **Houston Ship Channel, Texas**.

* * * * *

(b) Completion of Assessment.--Not later than 6 months after the date of receipt of a request from a non-Federal interest for Federal assumption of maintenance of a channel listed in subsection (a), the Secretary shall make a determination as provided in subsection (a) and advise the non-Federal interest of the Secretary's determination.

**Sec. 5002. [Watershed Management.]**

(a) In General.--The Secretary may provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) Specific Measures.--Assistance provided under subsection (a) may be in support of non-Federal projects for the following purposes:

(1) Management and restoration of water quality.

(2) Control and remediation of toxic sediments.

(3) Restoration of degraded streams, rivers, wetlands, and other water bodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation.

(4) Protection and restoration of watersheds, including urban watersheds.

(5) Demonstration of technologies for nonstructural measures to reduce destructive impacts of flooding.

(c) Non-Federal Share.--The Non-Federal share of the cost of assistance provided under subsection (a) shall be 25 percent.

(d) Project Locations.--The locations referred to in subsection (a) are the following:

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(18) Sauk River basin, Washington.

(e) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $15,000,000.

**Sec. 5003. [Dam Safety.]**

(a) Assistance.--The Secretary may provide assistance to enhance dam safety at the following locations:

(1) **Fish Creek Dam, Blaine County, Idaho**.

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(c) Authorization of Appropriations.--There is authorized to be appropriated to carry out subsection (a) $12,000,000.

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**Sec. 5007. [Expedited Completion of Reports and Construction for Certain Projects.]--** The Secretary shall expedite completion of the reports and, if the Secretary determines that the project is feasible, shall expedite completion of construction for the following projects:

(1) Project for navigation, Whittier, Alaska.

(2) Laguna Creek watershed flood damage reduction project, California.

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**Sec. 5008. [Expedited Completion of Reports for Certain Projects.]**

(a) In General.--The Secretary shall expedite completion of the reports for the following projects and, if the Secretary determines that a project is justified in the completed report, proceed directly to project preconstruction, engineering, and design:

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(2) Watershed study, Fountain Creek, north of **Pueblo, Colorado**.

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**Sec. 5018. [Missouri River and Tributaries, Mitigation, Recovery, and Restoration, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.]**

(a) Study.--

(1) In general.--The Secretary, in consultation with the Missouri River Recovery Implementation Committee to be established under subsection (b)(1), shall conduct a study of the Missouri River and its tributaries to determine actions required—

(A) to mitigate losses of aquatic and terrestrial habitat;

(B) to recover federally listed species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) to restore the ecosystem to prevent further declines among other native species.

(2) Funding.--The study to be conducted under paragraph (1) shall be funded using amounts made available to carry out the Missouri River recovery and mitigation plan authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143).

(b) Missouri River Recovery Implementation Committee.--

(1) Establishment.--Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a committee to be known as the Missouri River Recovery Implementation Committee (in this section referred to as the “Committee").

(2) Membership.--The Committee shall include representatives from--

(A) Federal agencies;

(B) States located near the Missouri River basin; and

(C) other appropriate entities, as determined by the Secretary, including--

(i) water management and fish and wildlife agencies;

(ii) Indian tribes located near the Missouri River basin; and

(iii) nongovernmental stakeholders, which may include--

(I) navigation interests;

(II) irrigation interests;

(III) flood control interests;

(IV) fish, wildlife, and conservation organizations;

(V) recreation interests; and

(VI) power supply interests.

(3) Duties.--The Committee shall—

(A) with respect to the study to be conducted under subsection (a)(1), provide guidance to the Secretary and any affected Federal agency, State agency, or Indian tribe; and

(B) provide guidance to the Secretary with respect to the Missouri River recovery and mitigation plan in existence on the date of enactment of this Act, including recommendations relating to--

(i) changes to the implementation strategy from the use of adaptive management;
(ii) coordination of the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for the Missouri River recovery and mitigation plan;
(iii) exchange of information regarding programs, projects, and activities of the agencies and entities represented on the Committee to promote the goals of the Missouri River recovery and mitigation plan;
(iv) establishment of such working groups as the Committee determines to be necessary to assist in carrying out the duties of the Committee, including duties relating to public policy and scientific issues;
(v) facilitating the resolution of interagency and intergovernmental conflicts between entities represented on the Committee associated with the Missouri River recovery and mitigation plan;
(vi) coordination of scientific and other research associated with the Missouri River recovery and mitigation plan; and
(vii) annual preparation of a work plan and associated budget requests.

(4) Recommendations and guidance.--In providing recommendations and guidance from the Committee, the members of the Committee may include dissenting opinions.

(5) Compensation; travel expenses.--

(A) Compensation.--Members of the Committee shall not receive compensation from the Secretary in carrying out the duties of the Committee under this section.

(B) Travel expenses.--Travel expenses incurred by a 5 U.S.C. App member of the Committee in carrying out the duties of the Committee under this section shall not be eligible for Federal reimbursement.

(c) Nonapplicability of FACA.--The Federal Advisory Committee Act (.) shall not apply to the Committee.

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**Sec. 5025. [Research and Development Program for Columbia and Snake River Salmon Survival.]**-- Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note; 110 Stat. 3761; 113 Stat. 375) is amended--

(1) in subsection (a)(6) by striking “$10,000,000" and inserting “$25,000,000"; and

(2) in subsection (c)(2) by striking “$1,000,000" and inserting “$10,000,000".

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**Sec. 5031. [Barrow, Alaska.]**-- The Secretary shall carry out, under section 117 of the Energy and Water Development Appropriations Act, 2005 (118 Stat. 2944), a nonstructural project for coastal erosion and storm damage prevention and reduction at Barrow, Alaska, including relocation of infrastructure.

**Sec. 5032. [Lowell Creek Tunnel, Seward, Alaska.]**

(a) Long-Term Maintenance and Repair.--

(1) Maintenance and repair.- The Secretary shall assume responsibility for the long-term maintenance and repair of the Lowell Creek tunnel, Seward, Alaska.

(2) Duration of responsibilities.-- The responsibility of the Secretary for long-term maintenance and repair of the tunnel shall continue until an alternative method of flood diversion is constructed and operational under this section, or 15 years after the date of enactment of this Act, whichever is earlier.

(b) Study.-- The Secretary shall conduct a study to determine whether an alternative method of flood diversion in Lowell Canyon is feasible.
(c) Construction.--

(1) Alternative methods.--If the Secretary determines under the study conducted under subsection (b) that an alternative method of flood diversion in Lowell Canyon is feasible, the Secretary shall carry out the alternative method.

(2) Federal share.--The Federal share of the cost of carrying out an alternative method under paragraph (1) shall be the same as the Federal share of the cost of the construction of the Lowell Creek tunnel.

**Sec. 5033. [St. Herman and St. Paul Harbors, Kodiak, Alaska.]--** The Secretary shall carry out, on an emergency basis, necessary removal of rubble, sediment, and rock impeding the entrance to the St. Herman and St. Paul Harbors, Kodiak, Alaska, at a Federal cost of $2,000,000.

**Sec. 5034. [Tanana River, Alaska.]--** The Secretary shall carry out, on an emergency basis, the removal of the hazard to navigation on the Tanana River, Alaska, near the mouth of the Chena River, as described in the January 3, 2005, memorandum from the Commander, Seventeenth Coast Guard District, to the Corps of Engineers, Alaska District, Anchorage, Alaska.

**Sec. 5035. [Wrangell Harbor, Alaska.]**

(a) General Navigation Features.--In carrying out the project for navigation, Wrangell Harbor, Alaska, authorized by section 101(b)(1) of the Water Resources Development Act of 1999 (113 Stat. 279), the Secretary shall consider the dredging of the mooring basin and construction of the inner harbor facilities to be general navigation features for purposes of estimating the non-Federal share of project costs.

(b) Revision of Partnership Agreement.--The Secretary shall revise the partnership agreement for the project to reflect the change required by subsection (a).

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**Sec. 5039. [California.]**

(a) Establishment of Program.--The Secretary may establish a program to provide environmental assistance to non-Federal interests in California.
(b) Form of Assistance.--Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in California, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.
(c) Ownership Requirement.--The Secretary may provide assistance for a project under this section only if the project is publicly owned.
(d) Partnership Agreements.—

(1) In general.--Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.--Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) Plan.--Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.—

(A) In general.--The Federal share of the cost of a project under this section—

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) Credit for work.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) Credit for interest.--In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) Credit for land, easements, and rights-of-way.--The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) Operation and maintenance.--The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) Applicability of Other Federal and State Laws.--Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) Nonprofit Entities.--In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity.

(g) Corps of Engineers Expenses.--Not more than 10 percent of amounts made available to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(h) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $40,000,000.

**Sec. 5040. [Calaveras River and Littlejohn Creek and Tributaries, Stockton, California.]**

(a) In General.--Unless the Secretary determines, by not later than 30 days after the date of enactment of this Act, that the relocation of the portion of the project described in subsection (b)(2) would be injurious to the public interest, a non-Federal interest may reconstruct and relocate that portion of the project approximately 300 feet in a westerly direction.

(b) Project Description.-- Calaveras River and Littlejohn Creek and tributaries, California, authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 902).

(2) Specific description.--The portion of the project to be reconstructed and relocated is that portion consisting of approximately 5.34 acres of dry land levee beginning at a point N.

2203542.3167, E. 6310930.1385, thence running west about 59.99 feet to a point N. 2203544.6562, E. 6310870.1468, thence running south about 3,874.99 feet to a point N. 2199669.8760, E. 6310861.7956, thence running east about 60.00 feet to a point N. 2199668.8026, E. 6310921.7900, thence running north about 3,873.73 feet to the point of origin.

(c) Cost Sharing.--The Non-Federal share of the cost of reconstructing and relocating the portion of the project described in subsection (b)(2) shall be 100 percent.

**Sec. 5041. [Cambria, California.]--** Section 219(f)(48) of the Water Resources Development Act of 1992 (114 Stat. 2763A-220) is amended--

(1) by striking "$10,300,000" and inserting the following:

"(A) In general.-- $10,300,000";

(2) by adding at the end the following:

"(B) Credit.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-b), toward the non-Federal share of the cost of the project not to exceed $3,000,000 for the cost of planning and design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project."; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

**Sec. 5042. [Contra Costa Canal, Oakley and Knightsen, California; Mallard Slough, Pittsburg, California.]--** Sections 512 and 514 of the Water Resources Development Act of 2000 (114 Stat. 2650) are each amended by adding at the end the following: "All planning, study, design, and construction on the project shall be carried out by the office of the district engineer, San Francisco, California.".

**Sec. 5043. [Dana Point Harbor, California.]--** The Secretary shall conduct a study of the causes of water quality degradation within Dana Point Harbor, California, to determine if the degradation is the result of a Federal navigation project, and, if the Secretary determines that the degradation is the result of a Federal navigation project, the Secretary shall carry out a project to mitigate the degradation at Federal expense.

**Sec. 5044. [East San Joaquin County, California.]--** Section 219(f)(22) of the Water Resources Development Act of 1992 (113 Stat. 336) is amended--

(1) by striking "$25,000,000" and inserting the following:

"(A) In general.--$25,000,000";

(2) by adding at the end the following:

"(B) Credit.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

"(C) In-kind contributions.--The Non-Federal interest may provide any portion of the non-Federal share of the cost of the project in the form of in-kind services and materials."; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

**Sec. 5045. [Eastern Santa Clara Basin, California.]--** Section 111(c) of the Miscellaneous Appropriations Act, 2001 (as enacted into law by Public Law 106-554; 114 Stat. 2763A-224) is amended--

(1) by striking “$25,000,000" and inserting “$28,000,000"; and
(2) by striking “$7,000,000" and inserting “$10,000,000".

**Sec. 5046. [LA-3 Dredged Material Ocean Disposal Site Designation, California.]--** The third sentence of section 102(c)(4) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(c)(4)) is amended by striking “January 1, 2003" and inserting “January 1, 2011".

**Sec. 5047. [Lancaster, California.]--** Section 219(f)(50) of the Water Resources Development Act of 1992 (114 Stat. 2763A-220) is amended--

(1) by inserting after “water" the following: “and wastewater"; and
(2) by striking “$14,500,000" and inserting “$24,500,000".

**Sec. 5048. [Los Osos, California.]--** Section 219(c)(27) of the Water Resources Development Act of 1992 (114 Stat. 2763A-219) is amended to read as follows:

“(27) **Los Osis, California**.--Wastewater infrastructure, Los Osos, California.".

**Sec. 5049. [Pine Flat Dam Fish and Wildlife Habitat, California.]**

(a) Cooperative Program.—

(1) In general.-- The Secretary shall participate with appropriate State and local agencies in the implementation of a cooperative program to improve and manage fisheries and aquatic habitat conditions in Pine Flat Reservoir and in the 14-mile reach of the Kings River immediately below Pine Flat Dam, California, in a manner that--

(A) provides for long-term aquatic resource enhancement; and
(B) avoids adverse effects on water storage and water rights holders.

(2) Goals and principles.-- The cooperative program described in paragraph (1) shall be carried out--

(A) substantially in accordance with the goals and principles of the document entitled “Kings River Fisheries Management Program Framework Agreement" and dated May 29, 1999, between the California department of fish and game and the Kings River Water Association and the Kings River Conservation District; and
(B) in cooperation with the parties to that agreement.

(b) Participation by Secretary.--

(1) In general.--In furtherance of the goals of the agreement described in subsection (a)(2), the Secretary shall participate in the planning, design, and construction of projects and pilot projects on the Kings River and its tributaries to enhance aquatic habitat and water availability for fisheries purposes (including maintenance of a trout fishery) in accordance with flood control operations, water rights, and beneficial uses in existence as of the date of enactment of this Act.

(2) Projects.-- Projects referred to in paragraph (1) may include--

(A) projects to construct or improve pumping, conveyance, and storage facilities to enhance water transfers; and
(B) projects to carry out water exchanges and create opportunities to use floodwater within and downstream of Pine Flat Reservoir.

(c) No Authorization of Certain Dam-Related Projects.--Nothing in this section shall be construed to authorize any project for the raising of Pine Flat Dam or the construction of a multilevel intake structure at Pine Flat Dam.

(d) Use of Existing Studies.--In carrying out this section, the Secretary shall use, to the maximum extent practicable, studies in existence on the date of enactment of this Act, including data and environmental documentation in the document entitled “Final Feasibility Report and Report of

the Chief of Engineers for Pine Flat Dam Fish and Wildlife Habitat Restoration" and dated July 19, 2002.
(e) Credit for Land, Easements, and Rights-of-Way.--The Secretary shall credit toward the non-Federal share of the cost of construction of any project under subsection (b) the value, regardless of the date of acquisition, of any land, easements, rights-of-way, dredged material disposal areas, or relocations provided by the non-Federal interest for use in carrying out the project.
(f) Operation and Maintenance.--The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.
(g) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $20,000,000. Such sums shall remain available until expended.

**Sec. 5050. [Raymond Basin, Six Basins, Chino Basin, and San Gabriel.]**

(a) Comprehensive Plan.--The Secretary, in consultation and coordination with appropriate Federal, State, and local entities, shall develop a comprehensive plan for the management of water resources in the Raymond Basin, Six Basins, Chino Basin, and San Gabriel Basin, California. The Secretary may carry out activities identified in the comprehensive plan to demonstrate practicable alternatives for water resources management.
(b) Operation and Maintenance.--The Non-Federal share of the cost of operation and maintenance of any measures constructed under this section shall be 100 percent.
(c) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $5,000,000.

**Sec. 5051. [San Francisco, California.]**

(a) In General.--The Secretary, in cooperation with the Port of San Francisco, California, may carry out the project for repair and removal, as appropriate, of Piers 30-32, 35, 36, 70 (including Wharves 7 and 8), and 80 in San Francisco, California, substantially in accordance with the Port's redevelopment plan.
(b) Authorization of Appropriation.--There is authorized to be appropriated $25,000,000 to carry out this section.

**Sec. 5052. [San Francisco, California, Waterfront Area.]**

(a) Area to Be Declared Nonnavigable; Public Interest.-- Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of the portion of the San Francisco, California, waterfront area described in subsection (b) are not in the public interest, such portion is declared to be nonnavigable waters of the United States.
(b) Northern Embarcadero South of Bryant Street.--The portion of the San Francisco, California, waterfront area referred to in subsection (a) is as follows: Beginning at the intersection of the northeasterly prolongation of that portion of the northwesterly line of Bryant Street lying between Beale Street and Main Street with the southwesterly line of Spear Street, which intersection lies on the line of jurisdiction of the San Francisco Port Commission; following thence southerly along said line of jurisdiction as described in the State of California Harbor and Navigation Code Section 1770, as amended in 1961, to its intersection with the southeasterly line of Townsend Street; thence northeasterly along said southeasterly line of Townsend Street, to its intersection with a line that is parallel and distant 10 feet southerly from the existing southern boundary of Pier 40 produced; thence easterly along said parallel line, to its point of intersection with the United States Government Pierhead line; thence northerly along said Pierhead line to its intersection with

a line parallel with, and distant 10 feet easterly from, the existing easterly boundary line of Pier 30-32; thence northerly along said parallel line and its northerly prolongation, to a point of intersection with a line parallel with, and distant 10 feet northerly from, the existing northerly boundary of Pier 30-32; thence westerly along last said parallel line to its intersection with the United States Government Pierhead line; thence northerly along said Pierhead line, to its intersection aforementioned northwesterly line of Bryant Street produced northeasterly; thence southwesterly along said northwesterly line of Bryant Street produced to the point of beginning.

(c) Requirement That Area Be Improved.--The declaration of nonnavigability under subsection (a) applies only to those parts of the area described in subsection (b) that are or will be bulkheaded, filled, or otherwise occupied by permanent structures and does not affect the applicability of any Federal statute or regulation applicable to such parts the day before the date of enactment of this Act, including sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403; 30 Stat. 1151), commonly known as the Rivers and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Expiration Date.-- If, 20 years from the date of enactment of this Act, any area or part thereof described in subsection (b) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (c), or if work in connection with any activity permitted in subsection (c) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

**Sec. 5053. [San Pablo Bay, California, Watershed and Suisun Marsh Ecosystem Restoration.]**

(a) **San Pablo Bay Watershed, California.—**

(1) In general.-- The Secretary shall complete work, as expeditiously as possible, on the ongoing San Pablo Bay watershed, California, study to determine the feasibility of opportunities for restoring, preserving, and protecting the San Pablo Bay watershed.

(2) Report.-- Not later than March 31, 2008, the Secretary shall submit to Congress a report on the results of the study.

(b) **Suisun Marsh, California.--** The Secretary shall conduct a comprehensive study to determine the feasibility of opportunities for restoring, preserving, and protecting the Suisun Marsh, California.

(c) **San Pablo and Suisun Bay Marsh** Watershed Critical Restoration Projects.--

(1) In general.-- The Secretary may participate in critical restoration projects that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits in the following sub-watersheds of the San Pablo and Suisun Bay Marsh watersheds:

(A) The tidal areas of the Petaluma River, Napa-Sonoma Marsh.

(B) The shoreline of West Contra Costa County.

(C) Novato Creek.

(D) Suisun Marsh.

(E) Gallinas-Miller Creek.

(2) Types of assistance.--Participation in critical restoration projects under this subsection may include assistance for planning, design, or construction.

(d) Credit.--In accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), the Secretary shall credit toward the non-Federal share of the cost of construction of a project under this section--

(1) the value of any lands, easements, rights-of-way, dredged material disposal areas, or relocations provided by the non-Federal interest for carrying out the project, regardless of the date of acquisition;

(2) funds received from the CALFED Bay-Delta program; and

(3) the cost of the studies, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project.

(e) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $40,000,000.

**Sec. 5054. [St. Helena, California.]**

(a) In General.--The Secretary may construct a project for flood control and environmental restoration, St. Helena, California, substantially in accordance with the plan for the St. Helena
comprehensive flood protection project dated 2006 and described in the addendum dated June 27, 2006, to the report prepared by the city of St. Helena entitled “City of St. Helena Comprehensive Flood Protection Project, Final Environmental Impact Report", and dated January 2004, if the Secretary determines that the plans and designs for the project are feasible.

(b) Cost.--The total cost of the project to be constructed pursuant to subsection (a) shall be $30,000,000, with an estimated Federal cost of $19,500,000 and an estimated non-Federal cost of $10,500,000.

(c) Reimbursement.--The Non-Federal interest shall be reimbursed for any work performed by the non-Federal interest for the project described in subsection (a) that is in excess of the required non-Federal contribution toward the total cost of the project, if the Secretary determines that the work is integral to the project.

**Sec. 5055. [Upper Calaveras River, Stockton, California.]**

(a) Reevaluation.--The Secretary shall reevaluate the feasibility of the Lower Mosher Slough element and the levee extensions on the Upper Calaveras River element of the project for flood control, Stockton Metropolitan Area, California, carried out under section 211(f)(3) of the Water Resources Development Act of 1996 (110 Stat. 3683), to determine the eligibility of such elements for reimbursement under section 211 of such Act (33 U.S.C. 701b-13).

(b) Special Rules for Reevaluation.--In conducting the reevaluation under subsection (a), the Secretary shall not reject a feasibility determination based on one or more of the policies of the Corps of Engineers concerning the frequency of flooding, the drainage area, and the amount of runoff.

(c) Reimbursement.--If the Secretary determines that the elements referred to subsection (a) are feasible, the Secretary shall reimburse, subject to appropriations, the non-Federal interest under section 211 of the Water Resources Development Act of 1996 for the Federal share of the cost of such elements.

**Sec. 5056. [Rio Grande Environmental Management Program, Colorado, New Mexico, and Texas.]**

(a) Definitions.--In this section, the following definitions apply:

(1) Rio Grande compact.-- The term “Rio Grande Compact" means the compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785), and ratified by the States.

(2) Rio Grande basin.-- The term “Rio Grande Basin" means the Rio Grande (including all tributaries and their headwaters) located--

(A) in the State of Colorado, from the Rio Grande Reservoir, near Creede, Colorado, to the New Mexico State border;

(B) in the State of New Mexico, from the Colorado State border downstream to the Texas State border; and

(C) in the State of Texas, from the New Mexico State border to the southern terminus of the Rio Grande at the Gulf of Mexico.

(3) States.-- The term “States" means the States of Colorado, New Mexico, and Texas.

(b) Program Authority.--

(1) In general.-- The Secretary shall carry out, in the Rio Grande Basin--

(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

(B) implementation of a long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program.

(2) Reports.--Not later than December 31, 2008, and not later than December 31 of every sixth year thereafter, the Secretary, in consultation with the Secretary of the Interior and the States, shall submit to Congress a report that--

(A) contains an evaluation of the programs described in paragraph (1);

(B) describes the accomplishments of each program;

(C) provides updates of a systemic habitat needs assessment; and

(D) identifies any needed adjustments in the authorization of the programs.

(c) State and Local Consultation and Cooperative Effort.--For the purpose of ensuring the coordinated planning and implementation of the programs described in subsection (b), the Secretary shall--

(1) consult with the States, and other appropriate entities in the States, the rights and interests of which might be affected by specific program activities; and

(2) enter into an interagency agreement with the Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the United States Fish and Wildlife Service and any other agency or bureau of the Department of the Interior for the planning, design, implementation, and evaluation of those programs.

(d) Operation and Maintenance.--The costs of operation and maintenance of a project located on Federal land, or land owned or operated by a State or local government, shall be borne by the Federal, State, or local agency that has jurisdiction over fish and wildlife activities on the land.

(e) Effect on Other Law.--

(1) Water law.--Nothing in this section shall be construed to preempt any State water law.

(2) Compacts and decrees.--In carrying out this section, the Secretary shall comply with the Rio Grande Compact, and any applicable court decrees or Federal and State laws, affecting water or water rights in the Rio Grande Basin.

(f) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary to carry out this section $15,000,000 for each of fiscal years 2008 through 2011.

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**Sec. 5067. [Idaho, Montana, Rural Nevada, New Mexico, Rural Utah, and Wyoming.]--** Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 139; 117 Stat. 142; 117 Stat. 1836; 118 Stat. 440) is amended--

(1) in the section heading by striking “and rural Utah” and inserting “rural Utah, and Wyoming”;
(2) in subsections (b) and (c) by striking “and rural Utah" each place it appears and inserting “rural Utah, and Wyoming"; and
(3) by striking subsection (h) and inserting the following:
“(h) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2001 $150,000,000 for rural Nevada, $25,000,000 for each of Montana and New Mexico, $55,000,000 for Idaho, $50,000,000 for rural Utah, and $30,000,000 for Wyoming. Such sums shall remain available until expended.".

**Sec. 5068. [Riley Creek Recreation Area, Idaho.]--** The Secretary is authorized to carry out the Riley Creek Recreation Area Operation Plan of the Albeni Falls Management Plan, dated October 2001, for the Riley Creek Recreation Area, Albeni Falls Dam, Bonner County, Idaho.

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**Sec. 5104. [Lower Platte River Watershed Restoration, Nebraska.]**

(a) In General.--The Secretary may cooperate with and provide assistance to the Lower Platte River natural resources districts in the State of Nebraska to serve as non-Federal interests with respect to--
(1) conducting comprehensive watershed planning in the natural resource districts;
(2) assessing water resources in the natural resource districts; and
(3) providing project feasibility planning, design, and construction assistance for water resource and watershed management in the natural resource districts, including projects for environmental restoration and flood damage reduction.

(b) Funding.--
(1) Federal share.--The Federal share of the cost of carrying out an activity described in subsection (a)(1) shall be 75 percent.
(2) Non-federal share.--The Non-Federal share of the cost of carrying out an activity described in subsection (a) may be provided in cash or in kind.

(c) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary to carry out this section $12,000,000.

* * * * *

**Sec. 5119. [Statewide Comprehensive Water Planning, Oklahoma.]**

(a) In General.--The Secretary shall provide technical assistance for the development of updates of the Oklahoma comprehensive water plan.

(b) Technical Assistance.--Technical assistance provided under subsection (a) may include-
(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;
(2) expansion of surface water and groundwater monitoring networks;
(3) assessment of existing water resources, surface water storage, and groundwater storage potential;
(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;
(5) participation in State planning forums and planning groups;
(6) coordination of Federal water management planning efforts; and
(7) technical review of data, models, planning scenarios, and water plans developed by the State.

(c) Allocation.--The Secretary shall allocate, subject to the availability of appropriations, $6,500,000 to provide technical assistance and for the development of updates of the Oklahoma comprehensive water plan.
(d) Cost Sharing Requirement.--The Non-Federal share of the total cost of any activity carried out under this section--

(1) shall be 25 percent; and

(2) may be in the form of cash or any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

**Sec. 5120. [Fern Ridge Dam, Oregon.]--** The Secretary may treat all work carried out for emergency corrective actions to repair the embankment dam at the Fern Ridge Lake project, Oregon, as a dam safety project. The cost of work carried out may be recovered in accordance with section 1203 of the Water Resources Development Act of 1986 (33 U.S.C. 467n; 100 Stat. 4263).

* * * * *

**Sec. 5129. [Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and Terrestrial Wildlife Habitat Restoration, South Dakota.]**
(a) Disbursement Provisions of State of South Dakota and Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.--Section 602(a)(4) of the Water Resources Development Act of 1999 (113 Stat. 386) is amended--

(1) in subparagraph (A)--

(A) in clause (i) by inserting “and the Secretary of the Treasury" after “Secretary"; and

(B) by striking clause (ii) and inserting the following:

“(ii) Availability of funds.--On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the State of South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 603 to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota after the State certifies to the Secretary of the Treasury that the funds to be disbursed will be used in accordance with section 603(d)(3) and only after the Trust Fund is fully capitalized."; and

(2) in subparagraph (B) by striking clause (ii) and inserting the following:

“(ii) Availability of funds.--On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 604, to be used to carry out the plans for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively, to after the respective tribe certifies to the Secretary of the Treasury that the funds to be disbursed will be used in accordance with section 604(d)(3) and only after the Trust Fund is fully capitalized.".

(b) Investment Provisions of the State of South Dakota Terrestrial Wildlife Restoration Trust Fund.--Section 603 of the Water Resources Development Act of 1999 (113 Stat. 388; 114 Stat. 2664) is amended--

(1) by striking subsection (c) and inserting the following: ``(c) Investments.—

“(1) Eligible obligations.--Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Fund.

“(2) Investment requirements.--

“(A) In general.--The Secretary of the Treasury shall invest the amounts in the Fund in accordance with the requirements of this paragraph.

“(B) Separate investments of principal and interest.--

“(i) Principal account.--The amounts deposited in the Fund under subsection (b) shall be credited to an account within the Fund (referred to in this paragraph as the `principal account') and invested as provided in subparagraph (C).

“(ii) Interest account.--The interest earned from investing amounts in the principal account of the Fund shall be transferred to a separate account within the Fund (referred to in this paragraph as the `interest account') and invested as provided in subparagraph (D).

“(iii) Crediting.--The interest earned from investing amounts in the interest account of the Fund shall be credited to the interest account.

“(C) Investment of principal account.--

“(i) Initial investment.--Each amount deposited in the principal account of the Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

“(ii) Subsequent investment.--As each 2-year, 5-year, and 10-year eligible obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

“(iii) Discontinuance of issuance of obligations.--If the Department of the Treasury discontinues issuing to the public obligations having 2-year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

“(D) Investment of interest account.--

“(i) Before full capitalization.--Until the date on which the Fund is fully capitalized, amounts in the interest account of the Fund shall be invested in eligible obligations that are identical (except for transferability) to publicly issued Treasury obligations that have

maturities that coincide, to the maximum extent practicable, with the date on which the Fund is expected to be fully capitalized.

"(ii) After full capitalization.--On and after the date on which the Fund is fully capitalized, amounts in the interest account of the Fund shall be invested and reinvested in eligible obligations having the shortest maturity then available until the amounts are withdrawn and transferred to fund the activities authorized under subsection (d)(3).

"(E) Par purchase price.--The price to be paid for eligible obligations purchased as investments of the principal account shall not exceed the par value of the obligations so that the amount of the principal account shall be preserved in perpetuity.

"(F) Highest yield.--Among eligible obligations having the same maturity and purchase price, the obligation to be purchased shall be the obligation having the highest yield.

"(G) Holding to maturity.--Eligible obligations purchased shall generally be held to their maturities.

"(3) Annual review of investment activities.--Not less frequently than once each calendar year, the Secretary of the Treasury shall review with the State of South Dakota the results of the investment activities and financial status of the Fund during the preceding 12-month period.

"(4) Audits.--

"(A) In general.--The activities of the State of South Dakota (referred to in this subsection as the `State') in carrying out the plan of the State for terrestrial wildlife habitat restoration under section 602(a) shall be audited as part of the annual audit that the State is required to prepare under the Office of Management and Budget Circular A-133 (or a successor circulation).

"(B) Determination by auditors.--An auditor that conducts an audit under subparagraph (A) shall--

"(i) determine whether funds received by the State under this section during the period covered by the audit were used to carry out the plan of the State in accordance with this section; and

"(ii) include the determination under clause (i) in the written findings of the audit.

"(5) Modification of investment requirements.--

"(A) In general.--If the Secretary of the Treasury determines that meeting the requirements under paragraph (2) with respect to the investment of a Fund is not practicable, or would result in adverse consequences for the Fund, the Secretary shall modify the requirements, as the Secretary determines to be necessary.

"(B) Consultation.--Before modifying a requirement under subparagraph (A), the Secretary of the Treasury shall consult with the State regarding the proposed modification.";

(2) in subsection (d)(2) by inserting "of the Treasury" after "Secretary"; and

(3) by striking subsection (f) and inserting the following:

"(f) Administrative Expenses.--There are authorized to be appropriated to the Secretary of the Treasury to pay expenses associated with

investing the Fund and auditing the uses of amounts withdrawn from the Fund--

"(1) $500,000 for each of fiscal years 2006 and 2007; and

"(2) such sums as are necessary for each subsequent fiscal year.".

(c) Investment Provisions for Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Trust Funds.--Section 604 of the Water Resources Development Act of 1999 (113 Stat. 389; 114 Stat. 2665) is amended--

(1) by striking subsection (c) and inserting the following:

"(c) Investments.--

"(1) Eligible obligations.-- Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Funds.

"(2) Investment requirements.--

"(A) In general.-- The Secretary of the Treasury shall invest the amounts in each of the Funds in accordance with the requirements of this paragraph.

"(B) Separate investments of principal and interest.--

"`(i) Principal account.-- The amounts deposited in each Fund under subsection (b) shall be credited to an account within the Fund (referred to in this paragraph as the `principal account') and invested as provided in subparagraph (C).

"(ii) Interest account.--The interest earned from investing amounts in the principal account of each Fund shall be transferred to a separate account within the Fund (referred to in this paragraph as the `interest account') and invested as provided in subparagraph (D).

"(iii) Crediting.--The interest earned from investing amounts in the interest account of each Fund shall be credited to the interest account.

"(C) Investment of principal account.--

"(i) Initial investment.--Each amount deposited in the principal account of each Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

"(ii) Subsequent investment.-- As each 2-year, 5-year, and 10-year eligible obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

"(iii) Discontinuation of issuance of obligations.-- If the Department of the Treasury discontinues issuing to the public obligations having 2-

year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

"(D) Investment of interest account.--

"(i) Before full capitalization.-- Until the date on which each Fund is fully capitalized, amounts in the interest account of the Fund shall be invested in eligible obligations that are identical (except for transferability) to publicly issued Treasury obligations that have maturities that coincide, to the maximum extent practicable, with the date on which the Fund is expected to be fully capitalized.

"(ii) After full capitalization.-- On and after the date on which each Fund is fully capitalized, amounts in the interest account of the Fund shall be invested and reinvested in eligible obligations having the shortest maturity then available until the amounts are withdrawn and transferred to fund the activities authorized under subsection (d)(3).

"(E) Par purchase price.-- The price to be paid for eligible obligations purchased as investments of the principal account shall not exceed the par value of the obligations so that the amount of the principal account shall be preserved in perpetuity.

"(F) Highest yield.-- Among eligible obligations having the same maturity and purchase price, the obligation to be purchased shall be the obligation having the highest yield.

"(G) Holding to maturity.-- Eligible obligations purchased shall generally be held to their maturities.

"(3) Annual review of investment activities.-- Not less frequently than once each calendar year, the Secretary of the Treasury shall review with the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe (referred to in this subsection as the `Tribes') the results of the investment activities and financial status of the Funds during the preceding 12-month period.

"(4) Audits.--

"(A) In general.-- The activities of the Tribes in carrying out the plans of the Tribes for terrestrial wildlife habitat restoration under section 602(a) shall be audited as part of the annual audit that the Tribes are required to prepare under the Office of Management and Budget Circular A-133 (or a successor circulation).

"(B) Determination by auditors.-- An auditor that conducts an audit under subparagraph (A) shall--

"(i) determine whether funds received by the Tribes under this section during the period covered by the audit were used to carry out the plan of the appropriate Tribe in accordance with this section; and

"(ii) include the determination under clause (i) in the written findings of the audit.

"(5) Modification of investment requirements.--

"(A) In general.-- If the Secretary of the Treasury determines that meeting the requirements under paragraph (2) with respect to the investment of a Fund is not practicable, or would result in adverse consequences for the Fund, the Secretary shall modify the requirements, as the Secretary determines to be necessary.
"(B) Consultation.-- Before modifying a requirement under subparagraph (A), the Secretary of the Treasury shall consult with the Tribes regarding the proposed modification."; and
(2) by striking subsection (f) and inserting the following:
"(f) Administrative Expenses.-- There are authorized to be appropriated to the Secretary of the Treasury to pay expenses
associated with investing the Funds and auditing the uses of amounts withdrawn from the Funds--
"(1) $500,000 for each of fiscal years 2006 and 2007; and
"(2) such sums as are necessary for each subsequent fiscal year.".

* * * * *

**Sec. 5138. [Texas.]**
(a) Establishment of Program.-- The Secretary shall establish a program to provide environmental assistance to non-Federal interests in the State of Texas.
(b) Form of Assistance.-- Assistance provided under this section may be in the form of planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects in Texas, including projects for water supply, storage, treatment, and related facilities, water quality protection, wastewater treatment, and related facilities, environmental restoration, and surface water resource protection, and development, as identified by the Texas Water Development Board.
(c) Ownership Requirement.-- The Secretary may provide assistance for a project under this section only if the project is publicly owned.
(d) Partnership Agreements.-- Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest.
(e) Cost Sharing.--
(1) In general.-- The Federal share of the cost of the project under this section--
(A) shall be 75 percent; and
(B) may be provided in the form of grants or reimbursements of project costs.
(2) In-kind services.-- The Non-Federal share may be provided in the form of materials and in-kind services, including planning, design, construction, and management services, as the Secretary determines to be compatible with, and necessary for, the project.
(3) Credit for work.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.
(4) Credit for land, easements, and rights-of-way.--The Non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs.
(5) Operation and maintenance.-- The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) Applicability of Other Federal and State Laws.--Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.
(g) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $40,000,000.

**Sec. 5139. [Bosque River Watershed, Texas.]**

(a) Comprehensive Plan.-- The Secretary, in consultation with appropriate Federal, State, and local entities, shall develop, as expeditiously as practicable, a comprehensive plan for development of new technologies and innovative approaches for restoring, preserving, and protecting the Bosque River watershed within Bosque, Hamilton, McLennan, and Erath Counties, Texas. The Secretary, in cooperation with the Secretary of Agriculture, may carry out activities identified in the comprehensive plan to demonstrate practicable alternatives for stabilization and enhancement of land and water resources in the basin.
(b) Services of Nonprofit Institutions and Other Entities.--In carrying out subsection (a), the Secretary may utilize, through contracts or other means, the services of nonprofit institutions and such other entities as the Secretary considers appropriate.
(c) Non-Federal Share.--

(1) Credit.-- The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.
(2) Development of comprehensive plan.--The Non-Federal share of the cost of development of the plan under subsection (a) shall be 25 percent.
(3) Operation and maintenance.-- The Non-Federal share of the cost of operation and maintenance for measures constructed with assistance provided under this section shall be 100 percent.

(d) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $10,000,000.

**Sec. 5140. [Dallas County Region, Texas.]**

(a) Dallas County Region Defined.-- In this section, the term “Dallas County region" means the city of Dallas, and the municipalities of DeSoto, Duncanville, Lancaster, Wilmer, Hutchins, Balch Springs, Cedar Hill, Glenn Heights, and Ferris, Texas.
(b) Establishment of Program.— The Secretary may establish a program to provide environmental assistance to non-Federal interests in the Dallas County region.
(c) Form of Assistance.-- Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the Dallas County region, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development.
(d) Ownership Requirement.-- The Secretary may provide assistance for a project under this section only if the project is publicly owned.
(e) Partnership Agreements.--

(1) In general.-- Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.-- Each partnership agreement for a project entered into under this subsection shall provide for the following:

(A) Plan.-- Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) Legal and institutional structures.-- Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.--

(A) In general.-- The Federal share of the cost of a project under this section--

(i) shall be 75 percent; and

(ii) may be provided in the form of grants or reimbursements of project costs.

(B) Credit for work.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost design work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) Credit for interest.-- In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share.

(D) Credit for land, easements, and rights-of-way.-- The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but the credit may not exceed 25 percent of total project costs.

(E) Operation and maintenance.-- The Non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) Applicability of Other Federal and State Laws.--Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) Nonprofit Entities.--In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) Corps of Engineers Expenses.-- Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

(i) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $40,000,000.

**Sec. 5141. [Dallasl Floodway, Dallas, Texas.]**

(a) In General.--The project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled, ``An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18), is modified to--

(1) direct the Secretary to review the Balanced Vision Plan for the Trinity River Corridor, Dallas, Texas, dated December 2003 and amended in March 2004, prepared by the non-Federal interest for the project;
(2) direct the Secretary to review the Interior Levee Drainage Study Phase-I report, Dallas, Texas, dated September 2006, prepared by the non-Federal interest; and
(3) if the Secretary determines that the project is technically sound and environmentally acceptable, authorize the Secretary to construct the project at a total cost of $459,000,000, with an estimated Federal cost of $298,000,000 and an estimated non-Federal cost of $161,000,000.

(b) Credit.--

(1) In-kind contributions.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.
(2) Cash contributions.--The Secretary shall accept funds provided by the non-Federal interest for use in carrying out planning, engineering, and design for the project. The Federal share of such planning, engineering, and design carried out with non-Federal contributions shall be credited against the non-Federal share of the cost of the project.

**Sec. 5142. [Harris County, Texas.]** Section 575(b) of the Water Resources Development Act of 1996 (110 Stat. 3789; 113 Stat. 311) is amended--

(1) in paragraph (3) by striking “and” at the end;
(2) in paragraph (4) by striking the period at the end and inserting ``; and"; and
(3) by adding the following:

“(5) the project for flood control, Upper White Oak Bayou, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125).".

**Sec. 5143. [Johnson Creek, Arlington, Texas.]**

(a) In General.--The project for flood damage reduction, environmental restoration, and recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat 280), is modified to authorize the Secretary to construct the project substantially in accordance with the report entitled ``Johnson Creek: A Vision of Conservation", dated March 30, 2006, at a total cost of $80,000,000, with an estimated Federal cost of $52,000,000 and an estimated non-Federal cost of $28,000,000, if the Secretary determines that the project is feasible.

(b) Non-Federal Share.--

(1) In general.--The Non-Federal share of the cost of the project may be provided in cash or in the form of in-kind services or materials.
(2) Credit.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(c) Special Rule.--In evaluating and implementing the project, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184).

(d) Conforming Amendment.--Section 134 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2263) is repealed.

**Sec. 5144. [Onion Creek, Texas.]**
(a) Inclusion of Costs and Benefits of Relocation of Flood-Prone Residences.--In carrying out the study for the project for flood damage reduction, recreation, and ecosystem restoration, Onion Creek, Texas, the Secretary shall include the costs and benefits associated with the relocation of flood-prone residences in the study area for the project in the period beginning 2 years before the date of initiation of the study and ending on the date of execution of the partnership agreement for construction of the project to the extent the Secretary determines such relocations are compatible with the project.
(b) Credit.--The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), toward the non-Federal share of the cost of the project referred to in subsection (a) the cost of relocation of those flood-prone residences described in subsection (a) that are incurred by the non-Federal interest before the date of the partnership agreement for the project.

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**Sec. 5150. [Baker Bay and Ilwaco Harbor, Washington.]--** The Secretary shall conduct a study of increased siltation in Baker Bay and Ilwaco Harbor, Washington, to determine if the siltation is the result of a Federal navigation project (including diverted flows from the Columbia River) and, if the Secretary determines that the siltation is the result of a Federal navigation project, the Secretary shall carry out a project to mitigate the siltation as part of maintenance of the Federal navigation project.
**Sec. 5151. [Hamilton Island Campground, Washington.]--** The Secretary is authorized to plan, design, and construct a campground for Bonneville Lock and Dam at Hamilton Island (also known as "Strawberry Island") in Skamania County, Washington.
**Sec. 5152. [Erosion Control, Puget Island, Wahkiakum County, Washington.]**
(a) In General.--The Lower Columbia River levees and bank protection works authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 178) is modified with regard to the Wahkiakum County diking districts No. 1 and 3, but without regard to any cost ceiling authorized before the date of enactment of this Act, to direct the Secretary to provide a one-time placement of dredged material along portions of the Columbia River shoreline of Puget Island, Washington, between river miles 38 to 47, and the shoreline of Westport Beach, Clatsop County, Oregon, between river miles 43 to 45, to protect economic and environmental resources in the area from further erosion.
(b) Coordination and Cost-Sharing Requirements.--The Secretary shall carry out subsection (a)--
(1) in coordination with appropriate resource agencies; and
(2) at Federal expense.
(c) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $1,000,000.
**Sec. 5153. [Willapa Bay, Washington.]--** Section 545 of the Water Resources Development Act of 2000 (114 Stat. 2675) is amended--
(1) in subsection (b)(1) by striking "may construct" and inserting "shall construct"; and
(2) by inserting "and ecosystem restoration" after "erosion protection" each place it appears.

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**Sec. 5157. [Construction of Flood Control Projects by Non-Federal Interests.]** Section 211(f) of the Water Resources Development Act of 1996 (33 U.S.C. 701b-13) is amended by adding at the end the following:

"(12) **Perris, California**.--The project for flood control, Perris, California.

* * * * *

"(15) **Buffalo Bayou, Texas**.--A project for flood control, Buffalo Bayou, Texas, to provide an alternative to the project authorized by the first section of the River and Harbor Act of June 20, 1938 (52 Stat. 804) and modified by section 3a of the Flood Control Act of August 11, 1939 (53 Stat. 1414).

"(16) **Halls Bayou, Texas**.--A project for flood control, Halls Bayou, Texas, to provide an alternative to the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610).

* * * * *

**Sec. 5158. [Additional Assistance for Critical Projects.]--** Section 219 of the Water Resources Development Act of 1992106 Stat. 4835; 110 Stat. 3757; 113 Stat. 334; 113 Stat. 1494; 114 Stat. 2763A-219; 119 Stat. 2255) is amended--

(1) in subsection (c)(5) by striking "a project for the elimination or control of combined sewer overflows" and inserting "projects for the design, installation, enhancement, or repair of sewer systems";

(2) in subsection (e)(1) by striking "$20,000,000" and inserting "$32,500,000"; and

(3) in subsection (f)--

(A) by striking the undesignated paragraph relating to Charleston, South Carolina, and inserting the following:

* * * * *

"(80) **Alameda and Contra Costa counties, California.--** $25,000,000 for recycled water treatment facilities within the East Bay Municipal Utility District service area, Alameda and Contra Costa Counties, California.

"(81) **Aliso Creek, Orange County, California**.--$5,000,000 for water related infrastructure, Aliso Creek, Orange County, California.

"(82) **Amador County, California**.--$3,000,000 for wastewater collection and treatment infrastructure, Amador County, California.

"(83) **Arcadia, Sierra Madre, and Upland, California**.-- $33,000,000 for water and wastewater infrastructure, Arcadia, Sierra Madre, and Upland, California, including $13,000,000 for stormwater infrastructure for Upland, California.

"(84) **Big Bear Area Regional Wastewater Agency, California**.--$15,000,000 for water reclamation and distribution infrastructure, Big Bear Area Regional Wastewater Agency, California.

"(85) **Brawley Colonia, Imperial County, California.--** $1,400,000 for water infrastructure to improve water quality in the Brawley Colonia Water District, Imperial County, California.

"(86) **Calaveras County, California**.--$3,000,000 for water supply and wastewater infrastructure improvement projects in Calaveras County, California, including wastewater reclamation, recycling, and conjunctive use projects.

"(87) **Contra Costa Water District, California**.--$23,000,000 for water and wastewater infrastructure for the Contra Costa Water District, California.

"(88) **East Bay, San Francisco, and Santa Clara areas, California**.--$4,000,000 for a desalination project to serve the East Bay, San Francisco, and Santa Clara areas, California.
"(89) **East Palo Alto, California**.--$4,000,000 for a new pump station and stormwater management and drainage system, East Palo Alto, California.
"(90) **Imperial County, California**.--$10,000,000 for wastewater infrastructure, including a wastewater disinfection facility and polishing system, to improve water quality in the vicinity of Calexico, California, on the southern New River, Imperial County, California.
"(91) **La Habra, California.--$**5,000,000 for wastewater and water related infrastructure, city of La Habra, California.
"(92) **La Mirada, California**.--$4,000,000 for the planning, design, and construction of a stormwater program in La Mirada, California.
"(93) **Los Angeles County, California**.--$3,000,000 for wastewater and water related infrastructure, Diamond Bar, La Habra Heights, and Rowland Heights, Los Angeles County, California.
"(94) **Los Angeles County, California**.--$20,000,000 for the planning, design, and construction of water related infrastructure for Santa Monica Bay and the coastal zone of Los Angeles County, California.
"(95) **Malibu, California**.--$3,000,000 for municipal wastewater and recycled water infrastructure, Malibu Creek Watershed Protection Project, Malibu, California.
"(96) **Montebello, California**.--$4,000,000 for water infrastructure improvements in south Montebello, California.
"(97) **New River, California**.--$10,000,000 for wastewater infrastructure to improve water quality in the New River, California.
"(98) **Orange County, California**.--$10,000,000 for wastewater and water related infrastructure, Anaheim, Brea, Mission Viejo, Rancho Santa Margarita, and Yorba Linda, Orange County, California.
"(99) **Port of Stockton, Stockton, California**.--$3,000,000 for water and wastewater infrastructure projects for Rough and Ready Island and vicinity, Stockton, California.
"(100) **Perris, California**.--$3,000,000 for recycled water transmission infrastructure, Eastern Municipal Water District, Perris, California.
"(101) **San Bernardino County, California**.--$9,000,000 for wastewater and water related infrastructure, Chino and Chino Hills, San Bernardino County, California.
"(102) **Santa Clara County, California**.--$5,500,000 for an advanced recycling water treatment plant in Santa Clara County, California.
"(103) **Santa Monica, California**.--$3,000,000 for improving water system reliability, Santa Monica, California.
"(104) **Southern Los Angeles County, California**.-- $15,000,000 for environmental infrastructure for the groundwater basin optimization pipeline, Southern Los Angeles County, California.
"(105) **Stockton, California**.--$33,000,000 for water treatment and distribution infrastructure, Stockton, California.

“(106) **Sweetwater Reservoir, San Diego County, California**.--$375,000 to improve water quality and remove nonnative aquatic nuisance species from the Sweetwater Reservoir, San Diego County, California.
“(107) **Whittier, California**.--$8,000,000 for water, wastewater, and water related infrastructure, Whittier, California.
“(108) **Arkansas Valley Conduit, Colorado**.--$10,000,000 for the Arkansas Valley Conduit, Colorado.
“(109) **Boulder County, Colorado**.--$10,000,000 for water supply infrastructure, Boulder County, Colorado.
“(110) **Montezuma and La Plata counties, Colorado**.-- $1,000,000 for water and wastewater related infrastructure for the Ute Mountain project, Montezuma and La Plata Counties, Colorado.
“(111) **Otero, Bent, Crowley, Kiowa, and Prowers counties, Colorado**.--$35,000,000 for water transmission infrastructure, Otero, Bent, Crowley, Kiowa, and Prowers Counties, Colorado.
“(112) **Pueblo and Otero counties, Colorado**.--$34,000,000 for water transmission infrastructure, Pueblo and Otero Counties, Colorado.

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“(168) **Clark County, Nevada**.--$30,000,000 for wastewater infrastructure, Clark County, Nevada.
“(169) **Clean Water Coalition, Nevada**.--$50,000,000 for the Systems Conveyance and Operations Program, Clark County, Henderson, Las Vegas, and North Las Vegas, Nevada.
“(170) **Glendale Dam Diversion Structure, Nevada**.-- $10,000,000 for water system improvements to the Glendale Dam Diversion Structure for the Truckee Meadows Water Authority, Nevada.
“(171) **Henderson, Nevada**.--$13,000,000 for wastewater infrastructure, Henderson, Nevada.
“(172) **Indian Springs, Nevada**.--$12,000,000 for construction of wastewater system improvements for the Indian Springs community, Nevada.
“(173) **Reno, Nevada**.--$13,000,000 for construction of a water conservation project for the Highland Canal, Mogul Bypass in Reno, Nevada.
“(174) **Washoe County, Nevada**.--$14,000,000 for construction of water infrastructure improvements to the Huffaker Hills Reservoir Conservation Project, Washoe County, Nevada.

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“(201) **North Dakota**.--$15,000,000 for water-related infrastructure, North Dakota.
“(202) **Devils Lake, North Dakota**.--$15,000,000 for water supply infrastructure, Devils Lake, North Dakota.
“(203) **Saipan, Northern Mariana Islands**.--$20,000,000 for water related infrastructure, Saipan, Northern Mariana Islands.

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“(219) **Ada, Oklahoma**.--$1,700,000 for sewer improvements and other water infrastructure, city of Ada, Oklahoma.

“(220) **Alva, Oklahoma**.--$250,000 for wastewater infrastructure improvements, city of Alva, Oklahoma.
“(221) **Ardmore, Oklahoma**.--$1,900,000 for water and sewer infrastructure improvements, city of Ardmore, Oklahoma.

“(222) **Bartlesville, Oklahoma**.--$2,500,000 for water supply infrastructure, city of Bartlesville, Oklahoma.
“(223) **Bethany, Oklahoma**.--$1,500,000 for water improvements and water related infrastructure, city of Bethany, Oklahoma.
“(224) **Chickasha, Oklahoma**.--$650,000 for industrial park sewer infrastructure, city of Chickasha, Oklahoma.
“(225) **Disney and Langley, Oklahoma**.--$2,500,000 for water and sewer improvements and water related infrastructure, cities of Disney and Langley, Oklahoma.
“(226) **Durant, Oklahoma**.--$3,300,000 for bayou restoration and water related infrastructure, city of Durant, Oklahoma.
“(227) **Eastern Oklahoma State University, Wilberton, Oklahoma**.--$1,000,000 for sewer and utility upgrades and water related infrastructure, Eastern Oklahoma State University, Wilberton, Oklahoma.
“(228) **Guymon, Oklahoma**.--$16,000,000 for water and wastewater related infrastructure, city of Guymon, Oklahoma.
“(229) **Konawa, Oklahoma**.--$500,000 for water treatment infrastructure improvements, city of Konawa, Oklahoma.
“(230) **Lugert-Altus Irrigation District, Altus, Oklahoma**.-- $5,000,000 for water related infrastructure improvements, Lugert-Altus Irrigation District, Altus, Oklahoma.
“(231) **Midwest City, Oklahoma**.--$2,000,000 for improvements to water related infrastructure, the City of Midwest City, Oklahoma.
“(232) **Mustang, Oklahoma**.--$3,325,000 for water improvements and water related infrastructure, city of Mustang, Oklahoma.
“(233) **Norman, Oklahoma**.--$10,000,000 for water related infrastructure, Norman, Oklahoma.
“(234) **Oklahoma Panhandle State University, Guymon, Oklahoma**.--$275,000 for water testing facility and water related infrastructure development, Oklahoma Panhandle State University, Guymon, Oklahoma.
“(235) **Weatherford, Oklahoma**.--$500,000 for arsenic program and water related infrastructure, city of Weatherford, Oklahoma.
“(236) **Woodward, Oklahoma**.--$1,500,000 for water improvements and water related infrastructure, Woodward, Oklahoma.
“(237) **Albany, Oregon**.--$35,000,000 for wastewater infrastructure to improve habitat restoration, Albany, Oregon.

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“(268) **Central Texas**.--$20,000,000 for water and wastewater infrastructure in Bosque, Brazos, Burleson, Grimes, Hill, Hood, Johnson, Madison, McLennan, Limestone, Robertson, and Somervell Counties, Texas.

"(269) **El Paso County, Texas**.--$25,000,000 for water related infrastructure and resource protection, including stormwater management, and development, El Paso County, Texas.
"(270) **Ft. Bend County, Texas**.--$20,000,000 for water and wastewater infrastructure, Ft. Bend County, Texas.
"(271) **Duchesne, Iron, and Uintah counties, Utah**.-- $10,800,000 for water related infrastructure, Duchesne, Iron, and Uintah Counties, Utah.

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Approved November 9, 2007.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 1495 (S. 1248):
House Report: No. 110-80, Comm. on Transportation and Infrastructure, March 29, 2007.
No. 110-280, Comm. of Conference, July 31, 2007.
Senate Report: No. 110-58 accompanying S. 1248, Comm. on Environment and Public Works, April 30, 2007.
CONGRESSIONAL BUDGET OFFICE: Cost Estimate;
March 29, 2007, House Bill.
May 11, 2007, House Approved Bill.
Sept. 24, 2007, Conference Bill.
CONGRESSIONAL RECORD, Vol. 153 (2007):
Apr. 19, Roll Call House considered and passed.
May 14-16, considered and passed Senate, amended, Pg. S6314.
Aug. 1, Roll Call House agreed to conference report.
Sept. 24, Roll Call Senate agreed to conference report.
CONGRESSIONAL RECORD, Vol. 153 (2007):
Nov. 6, House overrode veto, H12788.
Nov. 8, Roll Call Senate veto override.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):
Nov. 5, Presidential veto message, Pg. H12458.

December 21, 2007

## ARIZONA WATER SETTLEMENTS ACT AMENDMENTS

An Act to amend the Arizona Water Settlements Act to modify the requirements for the statement of findings. (An act of December 21, 2007, Public Law 110-148, 121 Stat. 1818)

**[Section 1. Modification to Requirements for Statement of Findings.]--** Section 302 of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3571) is amended as follows:

(1) In subsection (b)(5), by striking "proceedings," and all that follows through the end of the paragraph and inserting "proceedings;".

(2) In subsection (c), by striking "subsection (a)" and inserting "subsection (b)".

Approved December 21, 2007.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3739:
House Report: No. 110-484, Comm. on Natural Resources, Dec. 11, 2007.
CONGRESSIONAL BUDGET OFFICE; Cost Estimate, House Bill, Dec. 3, 2007.
CONGRESSIONAL RECORD, Vol. 153 (2007):
Dec. 11, considered and passed House, Pg. H15229.
Dec. 14, considered and passed Senate, Pg. S15706.

December 26, 2007

# CONSOLIDATED APPROPRIATIONS ACT, 2008

An Act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 20, 2008, and for other purposes. (An act of December 26, 2007, Public Law 110-161, 121 Stat. 1844)

**[Section 1. Short Title.]** This Act may be cited as the "Consolidated Appropriations Act, 2008".

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## DIVISION C--ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

## TITLE I

## CORPS OF ENGINEERS—CIVIL; DEPARTMENT OF THE ARMY

### Corps of Engineers--Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related purposes.

* * * * *

**Construction; (including rescissions of funds)**

Provided, That the Chief of Engineers is directed to use $12,792,000 of the funds appropriated herein for the **Dallas Floodway Extension, Texas**, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

Provided further, That the Chief of Engineers is directed to use $1,968,000 of the funds provided herein for the **Hawaii Water Management Project**:

* * * * *

Provided further, That the Chief of Engineers is directed to use $2,952,000 of the funds provided herein to initiate planning and design of a rural health care facility on the **Fort Berthold Reservation of the Three Affiliated Tribes, North Dakota**:

Provided further, That the Secretary of the Army shall use up to $5,904,000 including the prior unobligated balance of $4,972,000 from the **Devils Lake Outlet, North Dakota**, project for the North Dakota environmental infrastructure project:

* * * * *

**Sec. 108.** Notwithstanding section 729 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2267a), the Secretary shall credit toward the non-Federal share of the cost of the **Rio Grande Basin Watershed Study, New Mexico, Colorado and Texas**, the cost of in-kind services contributed by the New Mexico Interstate Stream Commission for the Study up to the full amount of the required non-Federal share, in accordance with the Agreement between the Commission and the Department of the Army dated December 3, 2001, as modified on January 14, 2002.

**Sec. 109.** Section 121 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) is amended by striking subsection (a) and inserting the following:

“(a) The Secretary of the Army may carry out and fund planning studies, watershed surveys and assessments, or technical studies at 100 percent Federal expense to accomplish the purposes of the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) and the collaborative program long-term plan. In carrying out a study, survey, or assessment under this subsection, the Secretary of the Army shall consult with Federal, State, tribal and local governmental entities, as well as entities participating in the **Middle Rio Grande Endangered Species Collaborative Program** referred to in section 205 of this Act: Provided, That the Secretary of the Army may also provide planning and administrative assistance to the **Middle Rio Grande Endangered Species Collaborative Program**, which shall not be subject to cost sharing requirements with non-Federal interests.".

* * * * *

**Sec. 111.** Section 594 of the Water Resources Development Act of 1999 is amended by striking “Sec. 594. Ohio." and inserting in lieu thereof “Sec. 594. **Ohio and North Dakota.**" and in (a) strike “Ohio." and insert in lieu thereof “Ohio and North Dakota." and in (b) strike “Ohio," and insert in lieu thereof “Ohio and North Dakota," and in (h) strike “$240,000,000." and insert in lieu thereof “$240,000,000 for Ohio and $100,000,000 for North Dakota.".

**Sec. 112.** The Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to conduct preconstruction engineering and design activities at full Federal expense for the **Kahuku Storm Damage Reduction Project, Oahu, Hawaii,** which includes interior drainage and related improvements to be constructed on lands that may include Federal land, the cost of the preconstruction, engineering, and design activities shall be included in total project costs to be cost shared at the rate of 65 percent Federal and 35 percent non-Federal, as a part of construction and the Decision Document contents shall be limited to a design analysis and supporting NEPA documentation for drainage improvements.

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**Sec. 115.** The Secretary of the Army acting through the Chief of Engineers is directed to plan, design, and construct a rural health care facility on the Fort Berthold Indian Reservation of the Three Affiliated Tribes, North Dakota, at an estimated Federal cost of $20,000,000. The Secretary shall transfer this facility to the Secretary of the Interior for operation and maintenance upon the completion of construction.

**Sec. 116.** The last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a(a)) is amended by striking “$5,000,000" and inserting “$7,000,000".

**Sec. 117. Johnson Creek, Arlington, Texas.**-- (a) In General.--The project for flood damage reduction, environmental restoration and recreation, **Johnson Creek, Arlington, Texas**, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280-281) is modified to authorize the Secretary to construct the project substantially in accordance with the report entitled Johnson Creek: A Vision of Conservation, dated March 30, 2006, at a total cost of $80,000,000, with an estimated Federal cost of $52,000,000 and an estimated non-Federal cost of $28,000,000 if the Secretary determines that the project is technically sound and environmentally acceptable.

(b) Non-Federal Share.--

(1) In general.--The Non-Federal share of the cost of the project may be provided in cash or in the form of in-kind services or materials.

(2) Credit and reimbursement.--The Secretary shall credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by

the non-Federal interest for implementation of the project, if the Secretary determines that the work is integral to the project. Subject to the availability of funds, the non- Federal interest shall be reimbursed for costs incurred by the non-Federal interest that exceed the non-Federal share of project costs.

(c) Conforming Amendment.--Section 134 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2264) and section 5143 of the Water Resources Development Act of 2007, (Public Law 110-114) are repealed.

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**Sec. 119.** Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580, 106 Stat. 4835 et seq.), as amended, is further amended by striking subsection "(71) **Coronado, California**", in its entirety and inserting the following:

"(71) Coronado, California.

"(A) $10,000,000 is authorized for wastewater infrastructure, Coronado, California.

"(B) The Federal Share may be in the form of grants or reimbursements of project costs incurred by the non-Federal sponsor for work performed by the non-Federal sponsor before or after the execution of a project cooperation agreement, if the Secretary determines that such work is integral to the project.

"(C) The Secretary is authorized to credit towards the non-Federal share of project costs the costs incurred by the non-Federal sponsor for work performed by the non-Federal sponsor before or after the execution of a project cooperation agreement, if the Secretary determines that such work is integral to the project."

**Sec. 120. Navajo Reservation, Arizona, New Mexico, and Utah**.— Section 520(b) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 345) is amended by inserting after the second sentence "The local match for the funds appropriated for flood plain delineation on the Navajo reservation in **Arizona, New Mexico**, **and Utah** may be provided as in-kind services.".

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**Sec. 136**. Utilizing funds appropriated under Alaska Coastal Erosion or other available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to prepare a preliminary action plan for any community that requests assistance pursuant to section 117, as contained in title I, division C of Public Law 108-447:

Provided, That the preliminary action plan pursuant to this authority shall be presented to the Assistant Secretary of the Army (Civil Works) and the Alaska Congressional Delegation not later than 90 days after the initial request from the community:

Provided further, That the preliminary action plan will recommend the most appropriate course of action (relocation or erosion stabilization), including a preliminary cost estimate and, at a minimum, the first year funding requirements:

Provided further, That if the Alaska District is unable to comply with this reporting requirement, the District shall provide written notification to the Assistant Secretary of the Army (Civil Works) and the Alaska Congressional Delegation within 30 days of the community assistance request explaining why they are unable to comply.

**TITLE II**

**DEPARTMENT OF THE INTERIOR**

**Central Utah Project: Central Utah Project Completion Account**

For carrying out activities authorized by the Central Utah Project Completion Act, $41,380,000, to remain available until expended, of which $976,000 shall be deposited into the Utah

Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,620,000, to remain available until expended. For fiscal year 2008, the Commission may use an amount not to exceed $1,500,000 for administrative expenses.

**Bureau of Reclamation**-- The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

**Water and Related Resources: (including transfers of funds)**-- For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, $949,882,000, to remain available until expended, of which $60,258,000 shall be available for transfer to the Upper Colorado River Basin Fund and $26,787,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706:

Provided, That such transfers may be increased or decreased within the overall appropriation under this heading:

Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading:

Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis:

Provided further, That funds provided for the Friant-Kern and Madera Canals improvements may be expended on a non-reimbursable basis: Provided further, That $2,952,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106-554.

**Central Valley Project Restoration Fund**-- For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $59,122,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended:

Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575:

Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

**California Bay-Delta Restoration: (including transfer of funds)--** For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, $40,098,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes:

Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management:

Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior:

Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

**Policy and Administration: (including transfer of funds)**-- For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $58,811,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377:

Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses:

Provided further, That, of the funds provided under this heading, $10,000,000 shall be transferred to “Water and Related Resources" upon the expiration of the 60-day period following the date of enactment of this Act if, during such period, the Secretary of the Interior has not submitted to the Committees on Appropriations of the House of Representatives and the Senate the Bureau of Reclamation's five-year budget plan.

**ADMINISTRATIVE PROVISION--** Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, which are for replacement only.

**General Provisions, Department of the Interior**

**Sec. 201.--** (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan" and the “SJVDP-Alternative Repayment Plan" described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 202.** None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.
**Sec. 203.** Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation.
**Sec. 204.** The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented:

Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works:

Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies:

Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: Provided further, That this section shall not supersede any existing project-specific funding authority:

Provided further, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.
**Sec. 205.** (a) Section 209 of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) is repealed.
(b) The Secretary of the Interior (referred to in this section as the “Secretary") shall establish an Executive Committee of the Middle Rio Grande Endangered Species Collaborative Program (referred to in this section as the “Executive Committee") consistent with the bylaws of the Middle Rio Grande Endangered Species Collaborative Program adopted on October 2, 2006.
(c) In compliance with applicable Federal and State laws, the Secretary (acting through the Commissioner of Reclamation), in collaboration with the Executive Committee, may enter into any grants, contracts, cooperative agreements, interagency agreements, or other agreements that the Secretary determines to be necessary to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by section 121(b) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) or in furtherance of the objectives set forth in the collaborative program long-term plan.
(d)(1) The acquisition of water under subsection (c) and any administrative costs associated with carrying out subsection (c) shall be at full Federal expense.

(2) Not more than 15 percent of amounts appropriated to carry out subsection (c) shall be made available for the payment of administrative expenses associated with carrying out that subsection.

(e)(1) The Non-Federal share of activities carried out under subsection (c) (other than an activity or a cost described in subsection (d)(1)) shall be 25 percent. The non-Federal cost share shall be determined on a programmatic, rather than a project-by-project basis.

(2) The Non-Federal share required under paragraph (1) may be in the form of in-kind contributions, the value of which shall be determined by the Secretary in consultation with the executive committee.

(f) Nothing in this section modifies or expands the discretion of the Secretary with respect to operating reservoir facilities under the jurisdiction of the Secretary in the Rio Grande Valley, New Mexico.

**Sec. 206.** In furtherance of section 529 of Public Law 106-541, the Secretary of the Interior shall continue to participate in implementation of the Project at Las Vegas Wash and Lake Mead in accordance with the Plan, and may provide grants to the Southern Nevada Water Authority to carry out the implementation of the Project at Las Vegas Wash and Lake Mead in accordance with the Plan:

Provided, That issuance of any such grants shall not modify the cost sharing requirements provided in section 529(b) of Public Law 106-541.

**Sec. 207.** In carrying out section 2507 of Public Law 107-171, the Secretary of the Interior, acting through the Commissioner of Reclamation, shall use $2,000,000 to provide grants, to be divided equally, to the State of Nevada and the State of California to implement the Truckee River Settlement Act, Public Law 101-618.

**Sec. 208**. (a) Notwithstanding any other provision of law, of amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior--

(1) acting through the Commissioner of Reclamation, shall use--

(A) subject to subsection (b), $3,000,000 for activities necessary to convey to the State of Nevada the land known as the ``Carson Lake and Pasture'', as authorized by section 206(e) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Public Law 101-618: 104 Stat. 3311);

(B) $10,000,000 for the removal of the Numana Dam and other obsolete irrigation structures located on the Pyramid Lake Paiute Reservation for the benefit of the Pyramid Lake Paiute Tribe because of their status as Indians;

(C) in consultation with the Corps of Engineers, as applicable, $5,000,000 to study and prepare plans for the development and construction of a pipeline to convey water from Dixie Valley to Churchill County, Nevada;

(D) $10,000,000 for--

(i) design and construction of the Derby Dam fish screen to allow passage of fish, including the cui-ui and Lahontan cutthroat trout; and

(ii) any improvements to Derby Dam necessary to make the fish screen operable;

(E) $6,000,000 for the acquisition of not more than 4 small hydroelectric power plants from the Sierra Pacific Power Company to improve water allocation and fish passage in the Truckee River; and

(F) $6,000,000 for Lower Truckee River restoration projects identified by the cities of Reno and Sparks, Nevada, and Washoe County, Nevada;

(2) shall allocate $9,000,000 to a nonprofit conservation organization, acting in consultation with the Truckee Meadows Water Authority, for--

(A) the acquisition of land surrounding Independence Lake; and

(B) protection of the native fishery and water quality of Independence Lake;

(3) shall allocate $1,000,000 to the Summit Lake Paiute Tribe to plan and complete restoration efforts at the Summit Lake in Northern Washoe County, Nevada, for the benefit of the Tribe because of their status as Indians;

(4) shall allocate $3,000,000 to the Newlands Project Water Rights Fund for a Federal-State-Pyramid Lake Paiute Tribe program, to be administered by an entity identified by the 3 applicable parties, for the retirement of water rights pursuant to the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Public Law 101-618: 104 Stat. 3311);

(5) shall allocate $2,500,000 to the United States Fish and Wildlife Service to analyze, in cooperation and consultation with external experts, the impacts of low water flows on reproduction at the Walker Lake fishery, including an analysis of methods to prevent permanent effects on the fishery from low water flows;

(6) shall allocate $4,000,000 to the State of Nevada to prepare watershed inventories, with a particular focus on the Walker and Carson River Basins;

(7) shall allocate $5,000,000 for joint planning and development activities for water, wastewater, and sewer facilities by the city of Fernley, Nevada, and the Pyramid Lake Paiute Tribe;

(8) shall allocate $500,000 for the Walker River Paiute Tribe for legal and professional services in support of settling tribal water claims in the Walker River Basin and to Walker Lake;

(9) shall allocate $1,000,000 to the Walker River Irrigation District—

(A) to plan and implement a weed control program to improve conveyance efficiency of water controlled by the Irrigation District; and

(B) to make improvements to water gauges controlled by the Irrigation District to enhance the water monitoring activities of the Irrigation District; and

(10) shall allocate $250,000 to Churchill County, Nevada, to provide testing of groundwater wells.

(b)(1) The Secretary shall achieve compliance with all applicable Federal laws (including regulations) relating to the conveyance of the Carson Lake and Pasture to the State of Nevada as described in subsection (a)(1)(A) by not later than June 30, 2010.

(2) Any amounts made available to carry out the conveyance described in subsection (a)(1)(A) but not expended for that purpose shall be made available to the State of Nevada to supplement funds provided under section 217(a)(1) of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1852), to purchase water rights from willing sellers and to make necessary improvements to benefit the Carson Lake and Pasture.

**Sec. 209.** Section 10(a) of the Mni Wiconi Project Act of 1988 (Public Law 100-516; 102 Stat. 2571; 116 Stat. 3033) is amended in the second sentence by striking “2008” and inserting “2013".

**Sec. 210.** Inland Empire and Cucamonga Valley Recycling Projects. The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

“SEC. 16__. INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

"(a) In General.--The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).
"(b) Cost Sharing.--The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.
"(c) Limitation.--Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).
"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section, $20,000,000.
"SEC. 16__. CUCAMONGA VALLEY WATER RECYCLING PROJECT.
"(a) In General.--The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.
"(b) Cost Sharing.--The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.
"(c) Limitation.--Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).
"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section, $10,000,000.
"(e) Sunset of Authority.--The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(c) Conforming Amendments.--The table of sections in section 2 of Public Law 102-575 is amended by inserting after the last item the following:

"16__. Inland Empire Regional Water Recycling Program.
"16__. Cucamonga Valley Water Recycling Project.".

**Sec. 211.** Prior to the unilateral termination or removal of cabin or trailer sites on Bureau of Reclamation lands in North Dakota for the purpose of changing land use, the Secretary of the Interior is directed to submit a report describing the action to the Committee on Energy and Natural Resources, United States Senate and the Committee on Natural Resources, United States House of Representatives and the House and Senate Committees on Appropriations:

Provided, That the Secretary shall not move forward with the proposed action until 60 days after the report is submitted to the Committee Chairmen.

**Sec. 212.** Section 3507(b) of Public Law 102-575 (106 Stat. 4600) is amended by striking "$4,660,000" and inserting "$12,660,000".

**Sec. 213.** Authority to Extend Water Contract. The Secretary of the Interior may extend the water contract 14-06-600-3593, as amended, between the United States and the East Bench Irrigation District for water services, until the earlier of--

(1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or
(2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).

**Sec. 214.** Southern California Desert Region Integrated Water and Economic Sustainability Plan. (a) In General.-- The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following new section:

“SEC. 16__. SOUTHERN CALIFORNIA DESERT REGION INTEGRATED WATER AND ECONOMIC SUSTAINABILITY PLAN.

“(a) Authorization.--The Secretary, in cooperation with the Mojave Water Agency is authorized to participate in the design, planning, and construction of projects to implement the `Mojave Water Agency's Integrated Regional Water Management Plan'.

“(b) Cost Share.--The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.

“(c) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section, $20,000,000.".

(b) Conforming Amendment.--The table of sections in section 2 of Public Law 102-575 is amended by inserting after the last item relating to title XVI the following:

“16__. Southern California desert region integrated water and economic sustainability plan.".

(c) Limitation.--The Secretary shall not provide funds for the operation or maintenance of a project authorized by this section.

(d) Credits Toward Non-Federal Share.--For purposes of subsection (b) the Secretary shall credit the Mojave Water Agency with the value of all expenditures made prior to the date of the enactment of this Act that are used toward completion of projects that are compatible with this section.

* * * * *

Approved December 26, 2007.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 2764:
House Report: No. 110-190, Comm. on Appropriations, June 13, 2007.
Senate Report: No.110-127, Comm. on Appropriations, July 9, 2007.
CONGRESSIONAL RECORD, Vol. 153 (2007):
June 20,, Roll Call considered and passed House.
Sept. 11, considered and passed Senate, amended. Pg. S11433.
Dec. 17, House concurred in Senate amendment with amendments. Pg. H15528.
Dec. 18, Roll Call Senate concurred in certain House amendments, in another with an amendment.
Dec. 19, House concurred in Senate amendment pursuant to H. Res. 893. Pg. H16901.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):
Dec. 26, Presidential statement.
BUREAU OF RECLAMATION TESTIMONY
March 1, 2007, Senate Comm. on Appropriations
March 8, 2007, House Comm. on Appropriations.

May 8, 2008

# CONSOLIDATED NATURAL RESOURCES ACT OF 2008

An Act To authorize certain programs and activities in the Department of the Interior, the Forest Service, and the Department of Energy, to implement further the Act approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, to amend the Compact of Free Association Amendments Act of 2003, and for other purposes. (An act of May 8, 2008, Public Law 110-229, 122 Stat. 754.)

**[Section 1. Short Title; Table of Contents.]--** a) Short Title.--This Act may be cited as the "Consolidated Natural Resources Act of 2008".

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## TITLE V--BUREAU OF RECLAMATION AND UNITED STATES GEOLOGICAL SURVEY AUTHORIZATIONS

### Sec. 501. [Alaska Water Resources Study.]

(a) Definitions.--In this section:

(1) Secretary.--The term "Secretary" means the Secretary of the Interior.

(2) State.--The term "State" means the State of Alaska.

(b) Alaska Water Resources Study.--

(1) Study.--The Secretary, acting through the Commissioner of Reclamation and the Director of the United States Geological Survey, where appropriate, and in accordance with this section and other applicable provisions of law, shall conduct a study that includes--

(A) a survey of accessible water supplies, including aquifers, on the Kenai Peninsula and in the Municipality of Anchorage, the Matanuska-Susitna Borough, the city of Fairbanks, and the Fairbanks Northstar Borough;

(B) a survey of water treatment needs and technologies, including desalination, applicable to the water resources of the State; and

(C) a review of the need for enhancement of the streamflow information collected by the United States Geological Survey in the State relating to critical water needs in areas such as--

(i) infrastructure risks to State transportation;

(ii) flood forecasting;

(iii) resource extraction; and

(iv) fire management.

(2) Report.--Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study required by paragraph (1).

(c) Sunset.--The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this Act.

(d) Authorization of Appropriations.--There are authorized to be appropriated such sums as are necessary to carry out this section.

### Sec. 502. [Renegotiation of Payment Schedule, Redwood Valley County Water District.]-

Section 15 of Public Law 100-516 (102 Stat. 2573) is amended--

(1) by amending paragraph (2) of subsection (a) to read as follows:

"(2) If, as of January 1, 2006, the Secretary of the Interior and the Redwood Valley County Water District have not renegotiated the schedule of payment, the District may enter into such additional non-Federal obligations as are necessary to finance procurement of dedicated water rights and improvements necessary to store and convey those rights to provide for the District's water needs. The Secretary shall reschedule the payments due under loans numbered 14-06-200-8423A and 14-06-200-8423A Amendatory and said payments shall commence when such additional obligations have been financially satisfied by the District. The date of the initial payment owed by the District to the United States shall be regarded as the start of the District's repayment period and the time upon which any interest shall first be computed and assessed under section 5 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.)."; and

(2) by striking subsection (c).

**Sec. 503. [American River Pump Station Project Transfer.]**

(a) Authority To Transfer.--The Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall transfer ownership of the American River Pump Station Project located at Auburn, California, which includes the Pumping Plant, associated facilities, and easements necessary for permanent operation of the facilities, to the Placer County Water Agency, in accordance with the terms of Contract No. 02-LC-20-7790 between the United States and Placer County Water Agency and the terms and conditions established in this section.

(b) Federal Costs Nonreimbursable.--Federal costs associated with construction of the American River Pump Station Project located at Auburn, California, are nonreimbursable.

(c) Grant of Real Property Interest.--The Secretary is authorized to grant title to Placer County Water Agency as provided in subsection (a) in full satisfaction of the United States' obligations under Land Purchase Contract 14-06-859-308 to provide a water supply to the Placer County Water Agency.

(d) Compliance with Environmental Laws.--

(1) In general.--Before conveying land and facilities pursuant to this section, the Secretary shall comply with all applicable requirements under--

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

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other law applicable to the land and facilities.

(2) Effect.--Nothing in this section modifies or alters any obligations under--

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

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(e) Release From Liability.--Effective on the date of transfer to the Placer County Water Agency of any land or facility under this section, the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the land and facilities, consistent with Article 9 of Contract No. 02-LC-20-7790 between the United States and Placer County Water Agency.

**Sec. 504. [Arthur V. Watkins Dam Enlargement.]**

(a) Findings.--Congress finds the following:

(1) Arthur V. Watkins Dam is a feature of the Weber Basin Project, which was authorized by law on August 29, 1949.

(2) Increasing the height of Arthur V. Watkins Dam and construction of pertinent facilities may provide additional storage capacity for the development of additional water supply for the Weber Basin Project for uses of municipal and industrial water supply, flood control, fish and wildlife, and recreation.

(b) Authorization of Feasibility Study.--The Secretary of the Interior, acting through the Bureau of Reclamation, is authorized to conduct a feasibility study on raising the height of Arthur V. Watkins Dam for the development of additional storage to meet water supply needs within the Weber Basin Project area and the Wasatch Front. The feasibility study shall include such environmental evaluation as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and a cost allocation as required under the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(c) Cost Shares.--

(1) Federal share.--The Federal share of the costs of the study authorized in subsection (b) shall not exceed 50 percent of the total cost of the study.

(2) In-kind contributions.--The Secretary shall accept, as appropriate, in-kind contributions of goods or services from the Weber Basin Water Conservancy District. Such goods and services accepted under this subsection shall be counted as part of the non-Federal cost share for the study.

(d) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary $1,000,000 for the Federal cost share of the study authorized in subsection (b).

(e) Sunset.--The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this Act.

**Sec. 505. [New Mexico Water Planning Assistance.]**

(a) Definitions.--In this section:

(1) Secretary.--The term “Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) State.--The term “State" means the State of New Mexico.

(b) Comprehensive Water Plan Assistance.--

(1) In general.--Upon the request of the Governor of the State and subject to paragraphs (2) through (6), the Secretary shall--

(A) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(B) conduct water resources mapping in the State; and

(C) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(2) Technical assistance.--Technical assistance provided under paragraph (1) may include-

(A) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(B) expansion of climate, surface water, and groundwater monitoring networks;

(C) assessment of existing water resources, surface water storage, and groundwater storage potential;

(D) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(E) participation in State planning forums and planning groups;

(F) coordination of Federal water management planning efforts;

(G) technical review of data, models, planning scenarios, and water plans developed by the State; and

(H) provision of scientific and technical specialists to support State and local activities.

(3) Allocation.--In providing grants under paragraph (1), the Secretary shall, subject to the availability of appropriations, allocate--

(A) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(B) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(C) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(D) $4,500,000 for statewide digital orthophotography mapping; and

(E) such sums as are necessary to carry out additional projects consistent with paragraph (2).

(4) Cost-sharing requirement.--

(A) In general.--The Non-Federal share of the total cost of any activity carried out using a grant provided under paragraph (1) shall be 50 percent.

(B) Form of non-federal share.--The Non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(5) Nonreimbursable basis.--Any assistance or grants provided to the State under this section shall be made on a non-reimbursable basis.

(6) Authorized transfers.--On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this section.

(c) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2008 through 2012.

(d) Sunset of Authority.--The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this Act.

**Sec. 506. [Conveyance of Certain Buildings and Land of the Yakima Project, Washington.]**

(a) Conveyance Required.--The Secretary of the Interior shall convey to the Yakima-Tieton Irrigation District, located in Yakima County, Washington, all right, title, and interest of the United States in and to the buildings and lands of the Yakima Project, Washington, in accordance with the terms and conditions set forth in the agreement titled “Agreement Between the United States and the Yakima-Tieton Irrigation District to Transfer Title to Certain Federally Owned Buildings and Lands, With Certain Property Rights, Title, and Interest, to the Yakima-Tieton Irrigation District" (Contract No. 5-07-10-L1658).

(b) Liability.--Effective upon the date of conveyance under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed buildings and lands, except for damages caused by acts of negligence committed by the United States or by its employees or agents before the date of conveyance. Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (popularly known as the Federal Tort Claims Act), on the date of enactment of this Act.

(c) Benefits.--After conveyance of the buildings and lands to the Yakima-Tieton Irrigation District under this section--

(1) such buildings and lands shall not be considered to be a part of a Federal reclamation project; and

(2) such irrigation district shall not be eligible to receive any benefits with respect to any buildings and lands conveyed, except benefits that would be available to a similarly situated person with respect to such buildings and lands that are not part of a Federal reclamation project.

(d) Report.--If the Secretary of the Interior has not completed the conveyance required under subsection (a) within 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that explains the reason such conveyance has not been completed and stating the date by which the conveyance will be completed.

**Sec. 507. [Conjunctive Use of Surface and Groundwater in Juab County, Utah.]--** Section 202(a)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575) is amended by inserting “Juab," after “Davis,".

**Sec. 508. [Early Repayment of A & B Irrigation District Construction Costs.]**

(a) In General.--Notwithstanding section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm), any landowner within the A & B Irrigation District in the State (referred to in this section as the ``District'') may repay, at any time, the construction costs of District project facilities that are allocated to land of the landowner within the District.

(b) Applicability of Full-Cost Pricing Limitations.--On discharge, in full, of the obligation for repayment of all construction costs described in subsection (a) that are allocated to all land the landowner owns in the District in question, the parcels of land shall not be subject to the ownership and full-cost pricing limitations under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), including the Reclamation Reform Act of 1982 (13 U.S.C. 390aa et seq.).

(c) Certification.--On request of a landowner that has repaid, in full, the construction costs described in subsection (a), the Secretary of the Interior shall provide to the landowner a certificate described in section 213(b)(1) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(b)(1)).

(d) Effect.--Nothing in this section--

(1) modifies any contractual rights under, or amends or reopens, the reclamation contract between the District and the United States; or

(2) modifies any rights, obligations, or relationships between the District and landowners in the District under Idaho State law.

**Sec. 509. [Oregon Water Resources.]**

(a) Extension of Participation of Bureau of Reclamation in Deschutes River Conservancy.--Section 301 of the Oregon Resource Conservation Act of 1996 (division B of Public Law 104-208; 110 Stat. 3009-534) is amended--

(1) in subsection (a)(1), by striking “Deschutes River Basin Working Group" and inserting “Deschutes River Conservancy Working Group";

(2) by amending the text of subsection (a)(1)(B) to read as follows: “4 representatives of private interests including two from irrigated agriculture who actively farm more than 100 acres of irrigated land and are not irrigation district managers and two from the environmental community;";

(3) in subsection (b)(3), by inserting before the final period the following: “, and up to a total amount of $2,000,000 during each of fiscal years 2007 through 2016"; and
(4) in subsection (h), by inserting before the period at the end the following: “, and $2,000,000 for each of fiscal years 2007 through 2016".

(b) Wallowa Lake Dam Rehabilitation Act.--

(1) Definitions.--In this subsection:

(A) Associated ditch companies incorporated.--The term “Associated Ditch Companies, Incorporated" means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(B) Secretary.--The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(C) Wallowa lake dam rehabilitation program.--The term “Wallowa Lake Dam Rehabilitation Program" means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document titled, “Phase I Dam Assessment and Preliminary Engineering Design", dated December 2002, and on file with the Bureau of Reclamation.

(2) Authorization to participate in program.--

(A) Grants and cooperative agreements.--The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program.

(B) Conditions.--As a condition of providing funds under subparagraph (A), the Secretary shall ensure that--

(i) the Wallowa Lake Dam Rehabilitation Program and activities under this section meet the standards of the dam safety program of the State of Oregon;

(ii) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with Federal funds provided to it under this subsection; and

(iii) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed with Federal funds provided under this subsection, both while and after activities are conducted using Federal funds provided under this subsection.

(C) Cost sharing.--

(i) In general.--The Federal share of the costs of activities authorized under this subsection shall not exceed 50 percent.

(ii) Exclusions from federal share.--There shall not be credited against the Federal share of such costs--

(I) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(II) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(D) Compliance with state law.--The Secretary, in carrying out this subsection, shall comply with applicable Oregon State water law.

(E) Prohibition on holding title.--The Federal Government shall not hold title to any facility rehabilitated or constructed under this subsection.

(F) Prohibition on operation and maintenance.--The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this subsection.

(3) Relationship to other law.--Activities funded under this subsection shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(4) Authorization of appropriations.--There is authorized to be appropriated to the Secretary to pay the Federal share of the costs of activities authorized under this subsection $6,000,000.

(5) Sunset.--The authority of the Secretary to carry out any provisions of this subsection shall terminate 10 years after the date of the enactment of this subsection.

(c) Little Butte/Bear Creek Subbasins, Oregon, Water Resource Study.--

(1) Authorization.--The Secretary of the Interior, acting through the Bureau of Reclamation, may participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the “Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project", dated July 2, 2004.

(2) Authorization of appropriations.--

(A) In general.--There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this subsection.

(B) Non-federal share.--

(i) In general.--The Non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out paragraph (1).

(ii) Form.--The Non-Federal share required under clause (i) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under paragraph (1).

(3) Sunset.--The authority of the Secretary to carry out any provisions of this subsection shall terminate 10 years after the date of the enactment of this section.

(d) North Unit Irrigation District.--The Act of August 10, 1954 (68 Stat. 679, chapter 663), is amended--

(1) in the first section--

(A) by inserting “(referred to in this Act as the `District')" after “irrigation district"; and

(B) by inserting “(referred to in this Act as the `Contract')" after “1953"; and

(2) by adding at the end the following:

“SEC. 3. ADDITIONAL TERMS.

“On approval of the District directors and notwithstanding project authorizing legislation to the contrary, the Contract is modified, without further action by the Secretary of the Interior, to include the following modifications:

“(1) In Article 8(a) of the Contract, by deleting `a maximum of 50,000' and inserting `approximately 59,000' after `irrigation service to'.

“(2) In Article 11(a) of the Contract, by deleting `The classified irrigable lands within the project comprise 49,817.75 irrigable acres, of which

35,773.75 acres are in Class A and 14,044.40 in Class B. These lands and the standards upon which the classification was made are described in the document entitled ``Land Classification, North Unit, Deschutes Project, 1953'' which is on file in the office of the Regional Director, Bureau of Reclamation, Boise, Idaho, and in the office of the District' and inserting `The classified irrigable land within
the project comprises 58,902.8 irrigable acres, all of which are authorized to receive irrigation water pursuant to water rights issued by the State of Oregon and have in the past received water pursuant to such State water rights.'.

"(3) In Article 11(c) of the Contract, by deleting `, with the approval of the Secretary,' after `District may', by deleting `the 49,817.75 acre maximum limit on the irrigable area is not exceeded' and inserting `irrigation service is provided to no more than approximately 59,000 acres and no amendment to the District boundary is required' after `time so long as'.

"(4) In Article 11(d) of the Contract, by inserting `, and may further be used for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after `herein provided'.

"(5) By adding at the end of Article 12(d) the following:

`(e) Notwithstanding the above subsections of this Article or Article 13 below, beginning with the irrigation season immediately following the date of enactment of the National Forests, Parks, Public Land, and Reclamation Projects Authorization Act of 2007, the annual installment for each year, for the District, under the Contract, on account of the District's construction charge obligation, shall be a fixed and equal annual amount payable on June 30 the year following the year for which it is applicable, such that the District's total construction charge obligation shall be completely paid by June 30, 2044.'.

"(6) In Article 14(a) of the Contract, by inserting `and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law,' after `and incidental stock and domestic uses', by inserting `and for instream purposes as described above,' after `irrigation, stock and domestic uses', and by inserting `, including natural flow rights out of the Crooked River held by the District' after `irrigation system'.

"(7) In Article 29(a) of the Contract, by inserting `and for instream purposes, including fish or wildlife purposes, to the extent that such use is required by Oregon State law in order for the District to engage in, or take advantage of, conserved water projects as authorized by Oregon State law' after `provided in article 11'.

"(8) In Article 34 of the Contract, by deleting `The District, after the election and upon the execution of this contract, shall promptly secure final decree of the

proper State court approving and confirming this contract and decreeing and adjudging it to be a lawful, valid, and binding general
obligation of the District. The District shall furnish to the United States certified copies of such decrees and of all pertinent supporting records.' after `for that purpose.'.

"SEC. 4. FUTURE AUTHORITY TO RENEGOTIATE.

"The Secretary of the Interior (acting through the Commissioner of Reclamation) may in the future renegotiate with the District such terms of the Contract as the District directors determine to be necessary, only upon the written request of the District directors and the consent of the Commissioner of Reclamation.".

**Sec. 510. [Republican River Basin Feasibility Study.]**

(a) Authorization of Study.-- Pursuant to reclamation laws, the Secretary of the Interior, acting through the Bureau of Reclamation and in consultation and cooperation with the States of Nebraska, Kansas, and Colorado, may conduct a study to--

(1) determine the feasibility of implementing a water supply and conservation project that will--

(A) improve water supply reliability in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas, including areas in the counties of Harlan, Franklin, Webster, and Nuckolls in Nebraska and Jewel, Republic, Cloud, Washington, and Clay in Kansas (in this section referred to as the ``Republican River Basin");

(B) increase the capacity of water storage through modifications of existing projects or through new projects that serve areas in the Republican River Basin; and

(C) improve water management efficiency in the Republican River Basin through conservation and other available means and, where appropriate, evaluate integrated water resource management and supply needs in the Republican River Basin; and

(2) consider appropriate cost-sharing options for implementation of the project.

(b) Cost Sharing.-- The Federal share of the cost of the study shall not exceed 50 percent of the total cost of the study, and shall be nonreimbursable.

(c) Cooperative Agreements.--The Secretary shall undertake the study through cooperative agreements with the State of Kansas or Nebraska and other appropriate entities determined by the Secretary.

(d) Completion and Report.--

(1) In general.-- Except as provided in paragraph (2), not later than 3 years after the date of the enactment of this Act, the Secretary of the Interior shall complete the study and transmit to the Congress a report containing the results of the study.

(2) Extension.-- If the Secretary determines that the study cannot be completed within the 3-year period beginning on the date of the enactment of this Act, the Secretary--

(A) shall, at the time of that determination, report to the Congress on the status of the study, including an estimate of the date of completion; and

(B) complete the study and transmit to the Congress a report containing the results of the study by not later than that date.

(e) Sunset of Authority.-- The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this Act.

**Sec. 511. [Eastern Municipal Water District.]**

(a) In General.--The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1639. EASTERN MUNICIPAL WATER DISTRICT RECYCLED WATER SYSTEM PRESSURIZATION AND EXPANSION PROJECT, CALIFORNIA.

"(a) Authorization.--The Secretary, in cooperation with the Eastern Municipal Water District, California, may participate in the design, planning, and construction of permanent facilities needed to establish operational pressure zones that will be used to provide recycled water in the district.

"(b) Cost Sharing.--The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $12,000,000.

"(e) Sunset of Authority.--The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of enactment of this section.".

(b) Conforming Amendment.--The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 371) is amended by inserting after the item relating to section 1638 the following:

"Sec. 1639. Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project, California.".

**Sec. 512. [Bay Area Regional Water Recycling Program.]**

(a) Project Authorizations.--

(1) In general.--The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) (as amended by section 512(a)) is amended by adding at the end the following:

"SEC. 1642. MOUNTAIN VIEW, MOFFETT AREA RECLAIMED WATER PIPELINE PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the City of Palo Alto, California, and the City of Mountain View, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $5,000,000.

"SEC. 1643. PITTSBURG RECYCLED WATER PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the City of Pittsburg, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $1,750,000.

"SEC. 1644. ANTIOCH RECYCLED WATER PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the City of Antioch, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $2,250,000.

"SEC. 1645. NORTH COAST COUNTY WATER DISTRICT RECYCLED WATER PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the North Coast County Water District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $2,500,000.

"SEC. 1646. REDWOOD CITY RECYCLED WATER PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $1,100,000.

"SEC. 1647. SOUTH SANTA CLARA COUNTY RECYCLED WATER PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the South County Regional Wastewater Authority and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water system distribution facilities.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $7,000,000.

"SEC. 1648. SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.

"(a) Authorization.--The Secretary, in cooperation with the City of San Jose, California, and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water treatment facilities.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $8,250,000.".

(2) Conforming amendments.--The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 371) (as amended by section 512(b)) is amended by inserting after the item relating to section 1641 the following:

"Sec. 1642. Mountain View, Moffett Area Reclaimed Water Pipeline Project.
"Sec. 1643. Pittsburg Recycled Water Project.
"Sec. 1644. Antioch Recycled Water Project.
"Sec. 1645. North Coast County Water District Recycled Water Project.
"Sec. 1646. Redwood City Recycled Water Project.
"Sec. 1647. South Santa Clara County Recycled Water Project.
"Sec. 1648. South Bay Advanced Recycled Water Treatment Facility.".

(b) San Jose Area Water Reclamation and Reuse Project.--It is the intent of Congress that a comprehensive water recycling program for the San Francisco Bay Area include the San Jose Area water reclamation and reuse program authorized by section 1607 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h

**Sec. 513. [Bureau of Reclamation Site Security.]**

(a) Treatment of Capital Costs.--Costs incurred by the Secretary of the Interior for the physical fortification of Bureau of Reclamation facilities to satisfy increased post-September 11, 2001, security needs, including the construction, modification, upgrade, or replacement of such facility fortifications, shall be nonreimbursable.

(b) Treatment of Security-Related Operation and Maintenance Costs.--

(1) Reimbursable costs.--The Secretary of the Interior shall include no more than $18,900,000 per fiscal year, indexed each fiscal year after fiscal year 2008 according to the preceding year's Consumer Price Index, of those costs incurred for increased levels of guards and patrols, training, patrols by local and tribal law enforcement entities, operation, maintenance, and replacement of guard and response force equipment, and operation and maintenance of facility fortifications at Bureau of Reclamation facilities after the events of September 11, 2001, as reimbursable operation and maintenance costs under Reclamation law.

(2) Costs collected through water rates.-- In the case of the Central Valley Project of California, site security costs allocated to irrigation and municipal and industrial water service in accordance with this section shall be collected by the Secretary exclusively through inclusion of these costs in the operation and maintenance water rates.

(c) Transparency and Report to Congress.--

(1) Policies and procedures.-- The Secretary is authorized to develop policies and procedures with project beneficiaries, consistent with the requirements of paragraphs (2) and (3), to provide for the payment of the reimbursable costs described in subsection (b).
(2) Notice.-- On identifying a Bureau of Reclamation facility for a site security measure, the Secretary shall provide to the project beneficiaries written notice--
(A) describing the need for the site security measure and the process for identifying and implementing the site security measure; and
(B) summarizing the administrative and legal requirements relating to the site security measure.
(3) Consultation.-- The Secretary shall--
(A) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the site security measure; and
(B) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in subparagraph (A).
(4) Response; notice.-- Before incurring costs pursuant to activities described in subsection (b), the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on such activities. The Secretary shall provide to the project beneficiary--
(A) a timely written response describing proposed actions, if any, to address the recommendation; and
(B) notice regarding the costs and status of such activities on a periodic basis.
(5) Report.—The Secretary shall report annually to the Natural Resources Committee of the House of Representatives and the Energy and Natural Resources Committee of the Senate on site security actions and activities undertaken pursuant to this Act for each fiscal year. The report shall include a summary of Federal and non-Federal expenditures for the fiscal year and information relating to a 5-year planning horizon for the program, detailed to show pre-September 11, 2001, and post-September 11, 2001, costs for the site security activities.

(d) Pre-September 11, 2001 Security Cost Levels.--Reclamation project security costs at the levels of activity that existed prior to September 11, 2001, shall remain reimbursable.

**Sec. 514. [More Water, More Energy, and Less Waste.]**

(a) Findings.--The Congress finds that--
(1) development of energy resources, including oil, natural gas, coalbed methane, and geothermal resources, frequently results in bringing to the surface water extracted from underground sources;
(2) some of that produced water is used for irrigation or other purposes, but most of the water is returned to the subsurface or otherwise disposed of as waste;
(3) reducing the quantity of produced water returned to the subsurface and increasing the quantity of produced water that is made available for irrigation and other uses--
(A) would augment water supplies;
(B) could reduce the costs to energy developers for disposing of the water; and
(C) in some cases, could increase the efficiency of energy development activities; and
(4) it is in the national interest--
(A) to limit the quantity of produced water disposed of as waste;
(B) to optimize the production of energy resources; and

(C) to remove or reduce obstacles to use of produced water for irrigation or other purposes in ways that will not adversely affect water quality or the environment.

(b) Purposes.--The purposes of this section are--

(1) to optimize the production of energy resources--

(A) by minimizing the quantity of produced water; and

(B) by facilitating the use of produced water for irrigation and other purposes without adversely affecting water quality or the environment; and

(2) to demonstrate means of accomplishing those results.

(c) Definitions.--In this section:

(1) Lower basin state.--The term “Lower Basin State" means any of the States of--

(A) Arizona;

(B) California; and

(C) Nevada.

(2) Produced water.--The term “produced water" means water from an underground source that is brought to the surface as part of the process of exploration for, or development of-

(A) oil;

(B) natural gas;

(C) coalbed methane; or

(D) any other substance to be used as an energy source.

(3) Secretary.--The term “Secretary" means the Secretary of the Interior.

(4) Upper basin state.--The term “Upper Basin State" means any of the States of--

(A) Colorado;

(B) New Mexico;

(C) Utah; and

(D) Wyoming.

(d) Identification of Problems and Solutions.--

(1) Study.--The Secretary shall conduct a study to identify--

(A) the technical, economic, environmental, and other obstacles to reducing the quantity of produced water;

(B) the technical, economic, environmental, legal, and other obstacles to increasing the extent to which produced water can be used for irrigation and other purposes without adversely affecting water quality, public health, or the environment;

(C) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified in subparagraphs (A) and (B); and

(D) the costs and benefits associated with reducing or eliminating the obstacles identified in subparagraphs (A) and (B).

(2) Report.--Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study under paragraph (1).

(e) Implementation.--

(1) Grants.--Subject to the availability of appropriations, the Secretary shall provide financial assistance for the development of facilities, technologies, and processes to demonstrate the feasibility, effectiveness, and safety of--

(A) optimizing energy resource production by reducing the quantity of produced water generated; or

(B) increasing the extent to which produced water may be recovered and made suitable for use for irrigation, municipal, or industrial uses, or other purposes without adversely affecting water quality or the environment.

(2) Limitations.--Assistance under this subsection--

(A) shall be provided for--

(i) at least 1 project in each of the Upper Basin States; and

(ii) at least 1 project in at least 1 of the Lower Basin States;

(B) shall not exceed $1,000,000 for any project;

(C) shall be used to pay not more than 50 percent of the total cost of a project;

(D) shall not be used for the operation or maintenance of any facility; and

(E) may be in addition to assistance provided by the Federal Government pursuant to other provisions of law.

(f) Consultation, Advice, and Comments.--In carrying out this section, including in preparing the report under subsection (d)(2) and establishing criteria to be used in connection with an award of financial assistance under subsection (e), the Secretary shall--

(1) consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and appropriate Governors and local officials;

(2)(A) review any relevant information developed in connection with research carried out by others, including research carried out pursuant to subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.); and

(B) to the extent the Secretary determines to be advisable, include that information in the report under subsection (d)(2);

(3) seek the advice of--

(A) individuals with relevant professional or academic expertise; and

(B) individuals or representatives of entities with industrial experience, particularly experience relating to production of oil, natural gas, coalbed methane, or other energy resources (including geothermal resources); and

(4) solicit comments and suggestions from the public.

(g) Relation to Other Laws.--Nothing in this section supersedes, modifies, abrogates, or limits-

(1) the effect of any State law or any interstate authority or compact relating to--

(A) any use of water; or

(B) the regulation of water quantity or quality; or

(2) the applicability or effect of any Federal law (including regulations).

(h) Authorization of Appropriations.--There are authorized to be appropriated--

(1) $1,000,000 to carry out subsection (d); and

(2) $7,500,000 to carry out subsection (e).

**Sec. 515. [Platte River Recovery Implementation Program and Pathfinder Modification Project Authorization.]**

(a) Purposes.--The purposes of this section are to authorize--

(1) the Secretary of the Interior, acting through the Commissioner of Reclamation and in partnership with the States, other Federal agencies, and other non-Federal entities, to continue the cooperative effort among the Federal and non-Federal entities through the implementation of the Platte River Recovery Implementation Program for threatened and endangered species in the Central and Lower Platte River Basin without creating Federal water rights or requiring the grant of water rights to Federal entities; and

(2) the modification of the Pathfinder Dam and Reservoir, in accordance with the requirements described in subsection (c).

(b) Platte River Recovery Implementation Program.--

(1) Definitions.--In this subsection:

(A) Agreement.-- The term “Agreement" means the Platte River Recovery Implementation Program Cooperative Agreement entered into by the Governors of the States and the Secretary.

(B) First increment.-- The term “First Increment" means the first 13 years of the Program.

(C) Governance committee.-- The term “Governance Committee" means the governance committee established under the Agreement and composed of members from the States, the Federal Government, environmental interests, and water users.

(D) Interest in land or water.-- The term “interest in land or water" includes a fee title, short- or long-term easement, lease, or other contractual arrangement that is determined to be necessary by the Secretary to implement the land and water components of the Program.

(E) Program.-- The term “Program” means the Platte River Recovery Implementation Program established under the Agreement.

(F) Project or activity.-- The term “project or activity” means--

(i) the planning, design, permitting or other compliance activity, preconstruction activity, construction, construction management, operation, maintenance, and replacement of a facility;

(ii) the acquisition of an interest in land or water;

(iii) habitat restoration;

(iv) research and monitoring;

(v) program administration; and

(vi) any other activity that is determined to be necessary by the Secretary to carry out the Program.

(G) Secretary.-- The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(H) States.-- The term “States" means the States of Nebraska, Wyoming, and Colorado.

(2) Implementation of program.--

(A) In general.-- The Secretary, in cooperation with the Governance Committee, may-

(i) participate in the Program; and

(ii) carry out any projects and activities that are designated for implementation during the First Increment.

(B) Authority of secretary.--For purposes of carrying out this section, the Secretary, in cooperation with the Governance Committee, may--

(i) enter into agreements and contracts with Federal and non-Federal entities;

(ii) acquire interests in land, water, and facilities from willing sellers without the use of eminent domain;

(iii) subsequently transfer any interests acquired under clause (ii); and

(iv) accept or provide grants.

(3) Cost-sharing contributions.--

(A) In general.-- As provided in the Agreement, the States shall contribute not less than 50 percent of the total contributions necessary to carry out the Program.

(B) Non-federal contributions.-- The following contributions shall constitute the States' share of the Program:

(i) $30,000,000 in non-Federal funds, with the balance of funds remaining to be contributed to be adjusted for inflation on October 1 of the year after the date of enactment of this Act and each October 1 thereafter.

(ii) Credit for contributions of water or land for the purposes of implementing the Program, as determined to be appropriate by the Secretary.

(C) In-kind contributions.-- The Secretary or the States may elect to provide a portion of the Federal share or non-Federal share, respectively, in the form of in-kind goods or services, if the contribution of goods or services is approved by the Governance Committee, as provided in Attachment 1 of the Agreement.

(4) Authority to modify program.-- The Program may be modified or amended before the completion of the First Increment if the Secretary and the States determine that the modifications are consistent with the purposes of the Program.

(5) Effect.--

(A) Effect on reclamation laws.-- No action carried out under this subsection shall, with respect to the acreage limitation provisions of the reclamation laws--

(i) be considered in determining whether a district (as the term is defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390b)) has discharged the obligation of the district to repay the construction cost of project facilities used to make irrigation water available for delivery to land in the district;

(ii) serve as the basis for reinstating acreage limitation provisions in a district that has completed payment of the construction obligations of the district; or

(iii) serve as the basis for increasing the construction repayment obligation of the district, which would extend the period during which the acreage limitation provisions would apply.

(B) Effect on water rights.-- Nothing in this section--

(i) creates Federal water rights; or

(ii) requires the grant of water rights to Federal entities.

(6) Authorization of appropriations.—

(A) In general.-- There is authorized to be appropriated to carry out projects and activities under this subsection $157,140,000, as adjusted under subparagraph (C).

(B) Nonreimbursable federal expenditures.-- Any amounts expended under subparagraph (A) shall be considered to be nonreimbursable Federal expenditures.

(C) Adjustment.-- The balance of funds remaining to be appropriated shall be adjusted for inflation on October 1 of the year after the date of enactment of this Act and each October 1 thereafter.

(D) Availability of funds.-- At the end of each fiscal year, any unexpended funds for projects and activities made available under subparagraph (A) shall be retained for use in future fiscal years to implement projects and activities under the Program.

(7) Termination of authority.-- The authority for the Secretary to implement the First Increment shall terminate on September 30, 2020.

(c) Pathfinder Modification Project.--

(1) Authorization of project.--

(A) In general.-- The Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this subsection as the “Secretary"), may--

(i) modify the Pathfinder Dam and Reservoir; and

(ii) enter into 1 or more agreements with the State of Wyoming to implement the Pathfinder Modification Project (referred to in this subsection as the “Project"), as described in Appendix F to the Final Settlement Stipulation in Nebraska v. Wyoming, 534 U.S. 40 (2001).

(B) Federal appropriations.--No Federal appropriations are required to modify the Pathfinder Dam under this paragraph.

(2) Authorized uses of pathfinder reservoir.--Provided that all of the conditions described in paragraph (3) are first met, the approximately 54,000 acre-feet capacity of Pathfinder Reservoir, which has been lost to sediment but will be recaptured by the Project, may be used for municipal, environmental, and other purposes, as described in Appendix F to the Final Settlement Stipulation in Nebraska v. Wyoming, 534 U.S. 40 (2001).

(3) Conditions precedent.--The actions and water uses authorized in paragraphs (1)(A)(i) and (2) shall not occur until each of the following actions have been completed:

(A) Final approval from the Wyoming legislature for the export of Project water to the State of Nebraska under the laws (including regulations) of the State of Wyoming.

(B) Final approval in a change of water use proceeding under the laws (including regulations) of the State of Wyoming for all new uses planned for Project water. Final approval, as used in this subparagraph, includes exhaustion of any available review under State law of any administrative action authorizing the change of the Pathfinder Reservoir water right.

**Sec. 516. [Central Oklahoma Master Conservatory District Feasibility Study.]**

(a) Study.--

(1) In general.-- Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this section as the “Secretary"), shall--

(A) conduct a feasibility study of alternatives to augment the water supplies of--

(i) the Central Oklahoma Master Conservatory District (referred to in this section as the “District)"; and

(ii) cities served by the District;

(2) Inclusions.—The study under paragraph (1) shall include recommendations of the Secretary, if any, relating to the alternatives studied.

(b) Cost-Sharing Requirement.--

(1) In general.--The Federal share of the total costs of the study under subsection (a) shall not exceed 50 percent.

(2) Form of non-federal share.--The Non-Federal share required under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

(c) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary to conduct the study under subsection (a) $900,000.

* * * * *

Approved May 8, 2008.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 2739:
CONGRESSIONAL RECORD, Vol. 154 (2008):
Apr. 10, considered and passed Senate, Pg. S2861.
Apr. 29, considered and passed House, Pg. H2773
BUREAU OF RECLAMATION TESTIMONY
Platte River Recovery, April 25 and April 26, 2007
Eastern Municipal Water District Recycled Water System, June 23, 2004; Oct. 6, 2005; Aug. 1, 2007
Redwood Valley County Water District, April 25, 2007
Central Oklahoma Master Conservancy District, Sept. 26, 2006
Arthur V. Watkins Dam Enlargement Act of 2005, Sept. 21, 2006
Southern California Desert Region Integrated Water and Economic Sustainability Plan, July 12, 2006
Yakima-Tieton Irrigation District Conveyance Act, Sept. 27, 2005 and June 28, 2006.
American River Pump Station Project Transfer Act, Feb. 8 and June 28, 2006
Enlarging the Arthur V. Watkins Dam, Nov. 9, 2005.

October 10, 2008

# WHITE MOUNTAIN APACHE TRIBE RURAL WATER SYSTEM LOAN AUTHORIZATION ACT

An Act to direct the Secretary of the Interior to provide a loan to the White Mountain Apache Tribe for use in planning, engineering, and designing a certain water system project. (An act of October 10, 2008, Public Law 110-390, 122 Stat. 4191)

**[Section 1. Short Title.]**-- This Act may be cited as the "White Mountain Apache Tribe Rural Water System Loan Authorization Act".

**Sec. 2. [Definitions.]**

(a) Miner Flat Project.-- The term "Miner Flat Project' means the White Mountain Apache Rural Water System, comprised of the Miner Flat Dam and associated domestic water supply components, as described in the project extension report dated February 2007.

(b) Secretary.-- The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation (or any other designee of the Secretary).

(c) Tribe.-- The term "Tribe" means the White Mountain Apache Tribe, a federally recognized Indian tribe organized pursuant to section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476 et seq.).

**Sec. 3. [Miner Flat Project Loan.]**

(a) Loan.--Subject to the availability of appropriations and the condition that the Tribe and the Secretary have executed a cooperative agreement under section 4(a), not later than 90 days after the date on which amounts are made available to carry out this section and the cooperative agreement has been executed, the Secretary shall provide to the Tribe a loan in an amount equal to $9,800,000, adjusted, as appropriate, based on ordinary fluctuations in engineering cost indices applicable to the Miner Flat Project during the period beginning on October 1, 2007, and ending on the date on which the loan is provided, as determined by the Secretary, to carry out planning, engineering, and design of the Miner Flat Project in accordance with section 4.

(b) Terms and Conditions of Loan.-- The loan provided under subsection (a) shall--

(1) be at a rate of interest of 0 percent; and

(2) be repaid over a term of 25 years, beginning on January 1, 2013.

(c) Administration.-- Subject to section 4, the Secretary shall administer the planning, engineering, and design of the Miner Flat Project.

**Sec. 4. [Planning, Engineering, and Design.]**

(a) Cooperative Agreement.--

(1) In general.--Not later than 90 days after the date of enactment of this Act, the Secretary shall offer to enter into a cooperative agreement with the Tribe for the planning, engineering, and design of the Miner Flat Project in accordance with this Act.

(2) Mandatory provisions.--A cooperative agreement under paragraph (1) shall--

(A) specify, in a manner that is acceptable to the Secretary and the Tribe, the rights, responsibilities, and liabilities of each party to the agreement; and

(B) require that the planning, engineering, design, and construction of the Miner Flat Project be in accordance with all applicable Federal environmental laws.

(b) Applicability of Indian Self-Determination and Education Assistance Act.--Each activity for the planning, engineering, or design of the Miner Flat Project shall be subject to the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et

seq.).

**Sec. 5. [Authorization of Appropriations.]--** There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 10, 2008.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--S. 3128:
Senate Report: No. 110-502, Comm. on Indian Affairs, Sept. 24, 2008.
CONGRESSIONAL RECORD, Vol. 154 (2008):
Sept. 25, considered and passed Senate, Pg. S9552.
Sept. 29, considered and passed House, Pg. H10609
BUREAU OF RECLAMATION TESTIMONY:
Sept. 11, 2008 (H.R. 3128) Senate Comm. on Indian Affairs.
Sept. 25, 2008 (H.R. 6754) House Comm. on Natural Resources.

March 11, 2009

# OMNIBUS APPROPRIATION ACT, 2009

[Extracts from] An Act making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes. (An act of March 11, 2009, Public Law 111-8, 123 Stat. 524)

**[Section 1. Short Title.]--** This Act may be cited as the "Omnibus Appropriations Act, 2009".

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## DIVISION C--ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2009

## TITLE I

## DEPARTMENT OF DEFENSE--CIVIL DEPARTMENT OF THE ARMY

### Corps of Engineers--Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

Provided, That the Chief of Engineers is directed to use $13,000,000 of the funds appropriated herein for the **Dallas Floodway Extension, Texas**, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

* * * * *

Provided further, That the Chief of Engineers is directed to use $17,048,000 of the funds provided herein for planning and design and construction of a rural health care facility on the **Fort Berthold Reservation of the Three Affiliated Tribes, North Dakota**:

* * * * *

### GENERAL PROVISIONS, Corps of Engineers--Civil

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**Sec. 106.** Section 121 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) is amended by striking subsection (a) and inserting the following:

"(a) Hereafter, the Secretary of the Army may carry out and fund planning studies, watershed surveys and assessments, or technical studies at 100 percent Federal expense to accomplish the purposes of the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) or any related subsequent biological opinion, and the collaborative program long-term plan. In carrying out a study, survey, or assessment under this subsection, the Secretary of the Army shall consult with Federal, State, tribal and local governmental entities, as well as entities participating in the **Middle Rio Grande Endangered Species Collaborative Program** referred to in section 205 of this Act:

* * * * *

**Sec. 114**. Section 3118 of Public Law 110-114 (121 Stat. 1137) is amended by--

(1) in paragraph (b) by inserting after "New Mexico" the following: "in accordance with the plans recommended in the feasibility report for the **Middle Rio Grande Bosque, New Mexico**, scheduled for completion in December 2008";

(2) redesignating subsection (d) as subsection (e); and
(3) inserting a new subsection (d):

"(d) Cost Sharing.--Any requirement for non-Federal participation in a project carried out in the bosque of Bernalillo County, New Mexico, pursuant to this section shall be limited to the provision of lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction, operation and maintenance of the project.".

* * * * *

**Sec. 116.** The Colorado Department of Natural Resources is authorized to perform modifications of the facility (**Chatfield Reservoir, Colorado**), and any required mitigation which results from implementation of the project:

Provided, That in carrying out the reassignment of storage space provided for in this section, the Secretary shall collaborate with the Colorado Department of Natural Resources and local interests to determine costs to be repaid for storage that reflects the limited reliability of the resources and the capability of non-Federal interests to make use of the reallocated storage space in **Chatfield Reservoir, Colorado**.

*** * * * ***

**TITLE II**
**DEPARTMENT OF THE INTERIOR**

**Central Utah Project; Central Utah project completion account--** For carrying out activities authorized by the Central Utah Project Completion Act, $40,360,000, to remain available until expended, of which $987,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,640,000, to remain available until expended. For fiscal year 2009, the Commission may use an amount not to exceed $1,500,000 for administrative expenses.

**Bureau of Reclamation--** The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

**Water and Related Resources; (including transfers of funds)--** For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, $920,259,000, to remain available until expended, of which $46,655,000 shall be available for transfer to the Upper Colorado River Basin Fund and $24,962,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706:

Provided, That such transfers may be increased or decreased within the overall appropriation under this heading:

Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading:

Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a nonreimbursable basis:

Provided further, That funds provided for the Friant-Kern and Madera Canals improvements may be expended on a non-reimbursable basis:

Provided further, That $4,000,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106-554:

Provided further, That, except as provided in section 201 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the text and table under this heading in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

**Central Valley Project Restoration Fund**-- For carrying out the programs, projects, plans, habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $56,079,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended:

Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575:

Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

**California Bay-Delta Restoration; (including transfers of funds)**-- For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, $40,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes:

Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management:

Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior:

Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

**policy and administration; (including transfer of funds)**-- For necessary expenses of policy, administration, and related functions in the Office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended,

$59,400,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377:

Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses:

Provided further, That, of the funds provided under this heading, $10,000,000 shall be transferred to “Water and Related Resources" upon the expiration of the 90-day period following the date of enactment of this Act if during such period, the Secretary of the Interior has not submitted to the Committees on Appropriations of the House of Representatives and the Senate the Bureau of Reclamation's five-year budget plan.

**ADMINISTRATIVE PROVISION--** Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed seven passenger motor vehicles, which are for replacement only.

**General Provisions, Department of the Interior**

**Sec. 201.** (a) None of the funds provided in title II of this Act for Water and Related Resources, or provided by previous appropriations Acts to the agencies or entities funded in title II of this Act for Water and Related Resources that remain available for obligation or expenditure in fiscal year 2009, shall be available for obligation or expenditure through a reprogramming of funds that--

(1) initiates or creates a new program, project, or activity;

(2) eliminates a program, project, or activity;

(3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;

(4) restarts or resumes any program, project or activity for which funds are not provided in this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;

(5) transfers funds in excess of the following limits, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate:

(A) 15 percent for any program, project or activity for which $2,000,000 or more is available at the beginning of the fiscal year; or

(B) $300,000 for any program, project or activity for which less than $2,000,000 is available at the beginning of the fiscal year;

(6) transfers more than $500,000 from either the Facilities Operation, Maintenance, and Rehabilitation category or the Resources Management and Development category to any program, project, or activity in the other category, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate; or

(7) transfers, where necessary to discharge legal obligations of the Bureau of Reclamation, more than $5,000,000 to provide adequate funds for settled contractor claims, increased contractor earnings due to accelerated rates of operations, and real estate deficiency judgments, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

(b) Subsection (a)(5) shall not apply to any transfer of funds within the Facilities Operation, Maintenance, and Rehabilitation category.

(c) For purposes of this section, the term ``transfer" means any movement of funds into or out of a program, project, or activity.

(d) The Bureau of Reclamation shall submit reports on a quarterly basis to the Committees on Appropriations of the House of Representatives and the Senate detailing all the funds reprogrammed between programs, projects, activities, or categories of funding. The first quarterly report shall be submitted not later than 60 days after the date of enactment of this Act.

**Sec. 202.** (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program-Alternative Repayment Plan" and the "SJVDP-Alternative Repayment Plan" described in the report entitled ``Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 203**. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

**Sec. 204.** Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation.

**Sec. 205.** The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented:

Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a nonreimbursable basis to an entity operating affected transferred works or may be deemed nonreimbursable for nontransferred works:

Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies:

Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity:

Provided further, That this section shall not supersede any existing project-specific funding authority:

Provided further, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or nonprofit research institutions to fund water use efficiency research.

**Sec. 206.** (a) Section 209 of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) is repealed.

(b) The Secretary of the Interior (referred to in this section as the "Secretary") shall establish and maintain an Executive Committee of the Middle Rio Grande Endangered Species Collaborative Program (referred to in this section as the "Executive Committee") consistent with the bylaws of the Middle Rio Grande Endangered Species Collaborative Program adopted on October 2, 2006.

(c) Hereafter, in compliance with applicable Federal and State laws, the Secretary (acting through the Commissioner of Reclamation), in collaboration with the Executive Committee, may enter into any grants, contracts, cooperative agreements, interagency agreements, or other agreements that the Secretary determines to be necessary to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by section 121(b) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) or any related subsequent biological opinion or in furtherance of the objectives set forth in the collaborative program long-term plan.

(d)(1) The acquisition of water under subsection (c) and any administrative costs associated with carrying out subsection (c) shall be at full Federal expense.

(2) Not more than 15 percent of amounts appropriated to carry out subsection (c) shall be made available for the payment of administrative expenses associated with carrying out that subsection.

(e)(1) The Non-Federal share of activities carried out under subsection (c) (other than an activity or a cost described in subsection (d)(1)) shall be 25 percent. The non-Federal cost share shall be determined on a programmatic, rather than a project-by-project basis.

(2) The Non-Federal share required under paragraph (1) may be in the form of in-kind contributions, the value of which shall be determined by the Secretary in consultation with the executive committee.

(f) Nothing in this section modifies or expands the discretion of the Secretary with respect to operating reservoir facilities under the jurisdiction of the Secretary in the Rio Grande Valley, New Mexico.

**Sec. 207.** Section 208 of the Energy and Water Development and Related Agencies Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 1953) is amended--

(1) in subsection (a)--

(A) in paragraph (2)(B), by inserting ", as determined by the nonprofit conservation organization" after "Lake"; and

(B) in paragraph (4), by striking "retirement of water rights" and all that follows through the semicolon at the end and inserting "retirement of water rights;"; and

(2) in subsection (b), by striking "June 30, 2010" and inserting "June 30, 2012".

**Sec. 208**. Notwithstanding any other provision of law, of amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior acting through the Commissioner of Reclamation, shall allocate--

(1) $300,000 to the Desert Research Institute for LIDAR acquisition data in the Walker River Basin, to supplement water rights research and data funded under section 208(a)(1)

of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268); and

(2) $300,000 to the Director of the United States Fish and Wildlife Service to conduct a multiyear assessment of and monitoring of the ability of west central Nevada lakes to support migratory loons, and identification of wintering areas and annual range of loons using Walker Lake during migration.

* * * * *

Approved March 11, 2009.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 1105:
CONGRESSIONAL RECORD, Vol. 155 (2009):
Feb. 25, considered and passed House, Pg. H2656.
Mar. 2, considered in Senate, Pg.
Mar. 3 (and here), considered in Senate, Pg. S2652.
Mar. 4 (and here), considered in Senate
Mar. 5, considered in Senate
Mar. 6 (and here), considered in Senate
Mar. 9, considered in Senate
Mar. 10 (and here), considered and passed Senate.
DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2009):
Mar. 11, Presidential statement.

March 30, 2009

# OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009

An Act to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes. (An act of March 30, 2009, Public Law 111-11, 123 Stat. 991)

**[Section 1. Short Title; Table of Contents.]**

(a) Short Title.--This Act may be cited as the "Omnibus Public Land Management Act of 2009".

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## TITLE IX--BUREAU OF RECLAMATION AUTHORIZATIONS

### Subtitle A--Feasibility Studies

**Sec. 9001. [Snake, Boise, and Payette River Systems, Idaho.]—**

(a) In General.-- The Secretary of the Interior, acting through the Bureau of Reclamation, may conduct feasibility studies on projects that address water shortages within the Snake, Boise, and Payette River systems in the State of Idaho, and are considered appropriate for further study by the Bureau of Reclamation Boise Payette water storage assessment report issued during 2006.

(b) Bureau of Reclamation.-- A study conducted under this section shall comply with Bureau of Reclamation policy standards and guidelines for studies.

(c) Authorization of Appropriations.-- There is authorized to be appropriated to the Secretary of the Interior to carry out this section $3,000,000.

(d) Termination of Effectiveness.-- The authority provided by this section terminates on the date that is 10 years after the date of enactment of this Act.

**Sec. 9002. [Sierra Vista Subwatershed, Arizona.]**

(a) Definitions.--In this section:

(1) Appraisal report.-- The term "appraisal report" means the appraisal report concerning the augmentation alternatives for the Sierra Vista Subwatershed in the State of Arizona, dated June 2007 and prepared by the Bureau of Reclamation.

(2) Principles and guidelines.--The term "principles and guidelines" means the report entitled "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" issued on March 10, 1983, by the Water Resources Council established under title I of the Water Resources Planning Act (42 U.S.C. 1962a et seq.).

(3) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(b) Sierra Vista Subwatershed Feasibility Study.--

(1) Study.--

(A) In general.--In accordance with the reclamation laws and the principles and guidelines, the Secretary, acting through the Commissioner of Reclamation, may complete a feasibility study of alternatives to augment the water supplies within the Sierra Vista Subwatershed in the State of Arizona that are identified as appropriate for further study in the appraisal report.

(B) Inclusions.--In evaluating the feasibility of alternatives under subparagraph (A), the Secretary shall--

(i) include--

(I) any required environmental reviews;

(II) the construction costs and projected operations, maintenance, and replacement costs for each alternative; and

(III) the economic feasibility of each alternative;

(ii) take into consideration the ability of Federal, tribal, State, and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs;

(iii) establish the basis for--

(I) any cost-sharing allocations; and

(II) anticipated repayment, if any, of Federal contributions; and

(iv) perform a cost-benefit analysis.

(2) Cost sharing requirement.--

(A) In general.--The Federal share of the total costs of the study under paragraph (1) shall not exceed 45 percent.

(B) Form of non-federal share.--The Non-Federal share required under subparagraph (A) may be in the form of any in-kind service that the Secretary determines would contribute substantially toward the conduct and completion of the study under paragraph (1).

(3) Statement of congressional intent relating to completion of study.--It is the intent of Congress that the Secretary complete the study under paragraph (1) by a date that is not later than 30 months after the date of enactment of this Act.

(4) Authorization of appropriations.--There is authorized to be appropriated to the Secretary to carry out this subsection $1,260,000.

(c) Water Rights.--Nothing in this section affects--

(1) any valid or vested water right in existence on the date of enactment of this Act; or

(2) any application for water rights pending before the date of enactment of this Act.

**Sec. 9003. [San Diego Interie, California.]**—

(a) Feasibility Study, Project Development, Cost Share.--

(1) In general.-- The Secretary of the Interior (hereinafter referred to as “Secretary"), in consultation and cooperation with the City of San Diego and the Sweetwater Authority, is authorized to undertake a study to determine the feasibility of constructing a four reservoir intertie system to improve water storage opportunities, water supply reliability, and water yield of the existing non-Federal water storage system. The feasibility study shall document the Secretary's engineering, environmental, and economic investigation of the proposed reservoir and intertie project taking into consideration the range of potential solutions and the circumstances and needs of the area to be served by the proposed reservoir and intertie project, the potential benefits to the people of that service area, and improved operations of the proposed reservoir and intertie system. The Secretary shall indicate

in the feasibility report required under paragraph (4) whether the proposed reservoir and intertie project is recommended for construction.

(2) Federal cost share.-- The Federal share of the costs of the feasibility study shall not exceed 50 percent of the total study costs. The Secretary may accept as part of the non-Federal cost share, any contribution of such in-kind services by the City of San Diego and the Sweetwater Authority that the Secretary determines will contribute toward the conduct and completion of the study.

(3) Cooperation.--The Secretary shall consult and cooperate with appropriate State, regional, and local authorities in implementing this subsection.

(4) Feasibility report.--The Secretary shall submit to Congress a feasibility report for the project the Secretary recommends, and to seek, as the Secretary deems appropriate, specific authority to develop and construct any recommended project. This report shall include--

(A) good faith letters of intent by the City of San Diego and the Sweetwater Authority and its non-Federal partners to indicate that they have committed to share the allocated costs as determined by the Secretary; and

(B) a schedule identifying the annual operation, maintenance, and replacement costs that should be allocated to the City of San Diego and the Sweetwater Authority, as well as the current and expected financial capability to pay operation, maintenance, and replacement costs.

(b) Federal Reclamation Projects.--Nothing in this section shall supersede or amend the provisions of Federal Reclamation laws or laws associated with any project or any portion of any project constructed under any authority of Federal Reclamation laws.

(c) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary $3,000,000 for the Federal cost share of the study authorized in subsection (a).

(d) Sunset.-- The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this Act.

**Subtitle B--Project Authorizations**

**Sec. 9101. [Tumalo Irrigation District Conservation Project, Oregon**.]

(a) Definitions In this section:

(1) District.—The term “District" means the Tumalo Irrigation District, Oregon.

(2) Project.-- The term “Project" means the Tumalo Irrigation District Water Conservation Project authorized under subsection (b)(1).

(3) Secretary.-- The term “Secretary" means the Secretary of the Interior.

(b) Authorization to Plan, Design and Construct the Tumalo Water Conservation Project.--

(1) Authorization.-- The Secretary, in cooperation with the District--

(A) may participate in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon; and

(B) for purposes of planning and designing the Project, shall take into account any appropriate studies and reports prepared by the District.

(2) Cost-sharing requirement.--

(A) Federal share.-- The Federal share of the total cost of the Project shall be 25 percent, which shall be nonreimbursable to the United States.

(B) Credit toward non-federal share.-- The Secretary shall credit toward the non-Federal share of the Project any amounts that the District provides toward the design, planning, and construction before the date of enactment of this Act.

(3) Title.-- The District shall hold title to any facilities constructed under this section.

(4) Operation and maintenance costs.--The District shall pay the operation and maintenance costs of the Project.

(5) Effect.-- Any assistance provided under this section shall not be considered to be a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(c) Authorization of Appropriations.-- There is authorized to be appropriated to the Secretary for the Federal share of the cost of the Project $4,000,000.
(d) Termination of Authority.-- The authority of the Secretary to carry out this section shall expire on the date that is 10 years after the date of enactment of this Act.

**Sec. 9102. [Madera Water Supply Enhancement Project, California.]—**

(a) Definitions.-In this section:

(1) District.--The term “District" means the Madera Irrigation District, Madera, California.

(2) Project.--The term “Project" means the Madera Water Supply Enhancement Project, a groundwater bank on the 13,646-acre Madera Ranch in Madera, California, owned, operated, maintained, and managed by the District that will plan, design, and construct recharge, recovery, and delivery systems able to store up to 250,000 acre-feet of water and recover up to 55,000 acre-feet of water per year, as substantially described in the California Environmental Quality Act, Final Environmental Impact Report for the Madera Irrigation District Water Supply Enhancement Project, September 2005.

(3) Secretary.--The term “Secretary" means the Secretary of the Interior.

(4) Total cost.--The term “total cost" means all reasonable costs, such as the planning, design, permitting, and construction of the Project and the acquisition costs of lands used or acquired by the District for the Project.

(b) Project Feasibility.--

(1) Project feasible.--Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, the Project is feasible and no further studies or actions regarding feasibility are necessary.

(2) Applicability of other laws.--The Secretary shall implement the authority provided in this section in accordance with all applicable Federal laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (7 U.S.C. 136; 16 U.S.C. 460 et seq.).

(c) Cooperative Agreement.--All final planning and design and the construction of the Project authorized by this section shall be undertaken in accordance with a cooperative agreement between the Secretary and the District for the Project. Such cooperative agreement shall set forth in a manner acceptable to the Secretary and the District the responsibilities of the District for participating, which shall include--

(1) engineering and design;

(2) construction; and

(3) the administration of contracts pertaining to any of the foregoing.

(d) Authorization for the Madera Water Supply and Enhancement Project.--

(1) Authorization of construction.-- The Secretary, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388), and Acts amendatory thereof or supplementary thereto, is authorized to enter into a cooperative agreement through the Bureau of Reclamation with the District for the support of the final design and construction of the Project.

(2) Total cost.-- The total cost of the Project for the purposes of determining the Federal cost share shall not exceed $90,000,000.

(3) Cost share.—The Federal share of the capital costs of the Project shall be provided on a nonreimbursable basis and shall not exceed 25 percent of the total cost. Capital, planning, design, permitting, construction, and land acquisition costs incurred by the District prior to

the date of the enactment of this Act shall be considered a portion of the non-Federal cost share.

(4) Credit for non-federal work.-- The District shall receive credit toward the non-Federal share of the cost of the Project for--

(A) in-kind services that the Secretary determines would contribute substantially toward the completion of the project;

(B) reasonable costs incurred by the District as a result of participation in the planning, design, permitting, and construction of the Project; and

(C) the acquisition costs of lands used or acquired by the District for the Project.

(5) Limitation.-- The Secretary shall not provide funds for the operation or maintenance of the Project authorized by this subsection. The operation, ownership, and maintenance of the Project shall be the sole responsibility of the District.

(6) Plans and analyses consistent with federal law.--Before obligating funds for design or construction under this subsection, the Secretary shall work cooperatively with the District to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the District for the Project. The Secretary shall ensure that such information as is used is consistent with applicable Federal laws and regulations.

(7) Title; responsibility; liability.--Nothing in this subsection or the assistance provided under this subsection shall be construed to transfer title, responsibility, or liability related to the Project to the United States.

(8) Authorization of appropriation.-- There is authorized to be appropriated to the Secretary to carry out this subsection $22,500,000 or 25 percent of the total cost of the Project, whichever is less.

(e) Sunset.-- The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this Act.

**Sec. 9103. [Eastern New Mexico Rural Water System Project, New Mexico.]**—

(a) Definitions.--In this section:

(1) Authority.-- The term “Authority" means the Eastern New Mexico Rural Water Authority, an entity formed under State law for the purposes of planning, financing, developing, and operating the System.

(2) Engineering report.--The term “engineering report" means the report entitled “Eastern New Mexico Rural Water System Preliminary Engineering Report" and dated October 2006.

(3) Plan.-- The term “plan" means the operation, maintenance, and replacement plan required by subsection (c)(2).

(4) Secretary.—The term “Secretary" means the Secretary of the Interior.

(5) State.-- The term ``State" means the State of New Mexico.

(6) System.--

(A) In general.-- The term “System" means the Eastern New Mexico Rural Water System, a water delivery project designed to deliver approximately 16,500 acre-feet of water per year from the Ute Reservoir to the cities of Clovis, Elida, Grady, Melrose, Portales, and Texico and other locations in Curry, Roosevelt, and Quay Counties in the State.

(B) Inclusions.-- The term “System" includes the major components and associated infrastructure identified as the “Best Technical Alternative" in the engineering report.

(7) Ute reservoir.--The term “Ute Reservoir" means the impoundment of water created in 1962 by the construction of the Ute Dam on the Canadian River, located approximately 32 miles upstream of the border between New Mexico and Texas.

(b) Eastern New Mexico Rural Water System.--

(1) Financial assistance.--

(A) In general.--The Secretary may provide financial and technical assistance to the Authority to assist in planning, designing, conducting related preconstruction activities for, and constructing the System.

(B) Use.--

(i) In general.-- Any financial assistance provided under subparagraph (A) shall be obligated and expended only in accordance with a cooperative agreement entered into under subsection (d)(1)(B).

(ii) Limitations.--Financial assistance provided under clause (i) shall not be used--

(I) for any activity that is inconsistent with constructing the System; or

(II) to plan or construct facilities used to supply irrigation water for irrigated agricultural purposes.

(2) Cost-sharing requirement.--

(A) In general.--The Federal share of the total cost of any activity or construction carried out using amounts made available under this section shall be not more than 75 percent of the total cost of the System.

(B) System development costs.--For purposes of subparagraph (A), the total cost of the System shall include any costs incurred by the Authority or the State on or after October 1, 2003, for the development of the System.

(3) Limitation.--No amounts made available under this section may be used for the construction of the System until--

(A) a plan is developed under subsection (c)(2); and

(B) the Secretary and the Authority have complied with any requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to the System.

(4) Title to project works.--Title to the infrastructure of the System shall be held by the Authority or as may otherwise be specified under State law.

(c) Operation, Maintenance, and Replacement Costs.--

(1) In general.--The Authority shall be responsible for the annual operation, maintenance, and replacement costs associated with the System.

(2) Operation, maintenance, and replacement plan.--The Authority, in consultation with the Secretary, shall develop an operation, maintenance, and replacement plan that establishes the rates and fees for beneficiaries of the System in the amount necessary to ensure that the System is properly maintained and capable of delivering approximately 16,500 acre-feet of water per year.

(d) Administrative Provisions.--

(1) Cooperative agreements.--

(A) In general.--The Secretary may enter into any contract, grant, cooperative agreement, or other agreement that is necessary to carry out this section.

(B) Cooperative agreement for provision of financial assistance.--

(i) In general.--The Secretary shall enter into a cooperative agreement with the Authority to provide financial assistance and any other assistance requested by the Authority for planning, design, related preconstruction activities, and construction of the System.

(ii) Requirements.--The cooperative agreement entered into under clause (i) shall, at a minimum, specify the responsibilities of the Secretary and the Authority with respect to--

(I) ensuring that the cost-share requirements established by subsection (b)(2) are met;

(II) completing the planning and final design of the System;

(III) any environmental and cultural resource compliance activities required for the System; and

(IV) the construction of the System.

(2) Technical assistance.--At the request of the Authority, the Secretary may provide to the Authority any technical assistance that is necessary to assist the Authority in planning, designing, constructing, and operating the System.

(3) Biological assessment.--The Secretary shall consult with the New Mexico Interstate Stream Commission and the Authority in preparing any biological assessment under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that may be required for planning and constructing the System.

(4) Effect.--Nothing in this section--

(A) affects or preempts--

(i) State water law; or

(ii) an interstate compact relating to the allocation of water; or

(B) confers on any non-Federal entity the ability to exercise any Federal rights to--

(i) the water of a stream; or

(ii) any groundwater resource.

(e) Authorization of Appropriations.--

(1) In general.--In accordance with the adjustment carried out under paragraph (2), there is authorized to be appropriated to the Secretary to carry out this section an amount not greater than $327,000,000.

(2) Adjustment.--The amount made available under paragraph (1) shall be adjusted to reflect changes in construction costs occurring after January 1, 2007, as indicated by engineering cost indices applicable to the types of construction necessary to carry out this section.

(3) Nonreimbursable amounts.--Amounts made available to the Authority in accordance with the cost-sharing requirement under subsection (b)(2) shall be nonreimbursable and nonreturnable to the United States.

(4) Availability of funds.--At the end of each fiscal year, any unexpended funds appropriated pursuant to this section shall be retained for use in future fiscal years consistent with this section.

**Sec. 9104. [Rancho California Water District Project, California.]**

(a) In General.-- The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1649. RANCHO CALIFORNIA WATER DISTRICT PROJECT, CALIFORNIA.

"(a) Authorization.-- The Secretary, in cooperation with the Rancho California Water District, California, may participate in the design, planning, and construction of permanent facilities for water recycling, demineralization, and desalination, and distribution of non-potable water supplies in Southern Riverside County, California.

"(b) Cost Sharing.-- The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project or $20,000,000, whichever is less.

"(c) Limitation.-- Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).".

(b) Clerical Amendment.--The table of items in section 2 of Public Law 102-575 is amended by inserting after the last item the following:

"Sec. 1649. Rancho California Water District Project, California.".

**Sec. 9105. [Jackson Gulch Rehabilitation Project, Colorado.]**

(a) Definitions.-- In this section:

(1) Assessment.-- The term "assessment" means the engineering document that is--

(A) entitled "Jackson Gulch Inlet Canal Project, Jackson Gulch Outlet Canal Project, Jackson Gulch Operations Facilities Project: Condition Assessment and Recommendations for Rehabilitation";

(B) dated February 2004; and

(C) on file with the Bureau of Reclamation.

(2) District.-- The term "District" means the Mancos Water Conservancy District established under the Water Conservancy Act (Colo. Rev. Stat. 37-45-101 et seq.).

(3) Project.-- The term "Project" means the Jackson Gulch rehabilitation project, a program for the rehabilitation of the Jackson Gulch Canal system and other infrastructure in the State, as described in the assessment.

(4) Secretary.-- The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(5) State.--The term "State" means the State of Colorado.

(b) Authorization of Jackson Gulch Rehabilitation Project.--

(1) In general.-- Subject to the reimbursement requirement described in paragraph (3), the Secretary shall pay the Federal share of the total cost of carrying out the Project.

(2) Use of existing information.-- In preparing any studies relating to the Project, the Secretary shall, to the maximum extent practicable, use existing studies, including engineering and resource information provided by, or at the direction of—

(A) Federal, State, or local agencies; and

(B) the District.

(3) Reimbursement requirement.--

(A) Amount.-- The Secretary shall recover from the District as reimbursable expenses the lesser of--

(i) the amount equal to 35 percent of the cost of the Project; or

(ii) $2,900,000.

(B) Manner.-- The Secretary shall recover reimbursable expenses under subparagraph (A)--

(i) in a manner agreed to by the Secretary and the District;

(ii) over a period of 15 years; and

(iii) with no interest.

(C) Credit.-- In determining the exact amount of reimbursable expenses to be recovered from the District, the Secretary shall credit the District for any amounts it paid before the date of enactment of this Act for engineering work and improvements directly associated with the Project.

(4) Prohibition on operation and maintenance costs.--The District shall be responsible for the operation and maintenance of any facility constructed or rehabilitated under this section.

(5) Liability.-- The United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this section.

(6) Effect.-- An activity provided Federal funding under this section shall not be considered a supplemental or additional benefit under--

(A) the reclamation laws; or

(B) the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

(7) Authorization of appropriations.--There is authorized to be appropriated to the Secretary to pay the Federal share of the total cost of carrying out the Project $8,250,000.

**Sec. 9106. [Rio Grande Pueblos, New Mexico.]**

(a) Findings and Purpose.--

(1) Findings.-- Congress finds that--

(A) drought, population increases, and environmental needs are exacerbating water supply issues across the western United States, including the Rio Grande Basin in New Mexico;

(B) a report developed by the Bureau of Reclamation at the Bureau of Indian Affairs in 2000 identified a serious need for the rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos;

(C) inspection of existing irrigation infrastructure of the Rio Grande Pueblos shows that many key facilities, such as diversion structures and main conveyance ditches, are unsafe and barely, if at all, operable;

(D) the benefits of rehabilitating and repairing irrigation infrastructure of the Rio Grande Pueblos include--

(i) water conservation;

(ii) extending available water supplies;

(iii) increased agricultural productivity;

(iv) economic benefits;

(v) safer facilities; and

(vi) the preservation of the culture of Indian Pueblos in the State;

(E) certain Indian Pueblos in the Rio Grande Basin receive water from facilities operated or owned by the Bureau of Reclamation; and

(F) rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos would improve--

(i) overall water management by the Bureau of Reclamation; and

(ii) the ability of the Bureau of Reclamation to help address potential water supply conflicts in the Rio Grande Basin.

(2) Purpose.-- The purpose of this section is to direct the Secretary--

(A) to assess the condition of the irrigation infrastructure of the Rio Grande Pueblos;

(B) to establish priorities for the rehabilitation of irrigation infrastructure of the Rio Grande Pueblos in accordance with specified criteria; and

(C) to implement projects to rehabilitate and improve the irrigation infrastructure of the Rio Grande Pueblos.

(b) Definitions.--In this section:

(1) 2004 agreement.-- The term “2004 Agreement" means the agreement entitled “Agreement By and Between the United States of America and the Middle Rio Grande Conservancy District, Providing for the Payment of Operation and Maintenance Charges on Newly Reclaimed Pueblo Indian Lands in the Middle Rio Grande Valley, New Mexico" and executed in September 2004 (including any successor agreements and amendments to the agreement).

(2) Designated engineer.-- The term “designated engineer" means a Federal employee designated under the Act of February 14, 1927 (69 Stat. 1098, chapter 138) to represent the United States in any action involving the maintenance, rehabilitation, or preservation of the condition of any irrigation structure or facility on land located in the Six Middle Rio Grande Pueblos.

(3) District.-- The term “District" means the Middle Rio Grande Conservancy District, a political subdivision of the State established in 1925.

(4) Pueblo irrigation infrastructure.-- The term “Pueblo irrigation infrastructure" means any diversion structure, conveyance facility, or drainage facility that is--

(A) in existence as of the date of enactment of this Act; and

(B) located on land of a Rio Grande Pueblo that is associated with--

(i) the delivery of water for the irrigation of agricultural land; or

(ii) the carriage of irrigation return flows and excess water from the land that is served.

(5) **Rio Grande basin.--** The term “Rio Grande Basin" means the headwaters of the Rio Chama and the Rio Grande Rivers (including any tributaries) from the State line between Colorado and New Mexico downstream to the elevation corresponding with the spillway crest of Elephant Butte Dam at 4,457.3 feet mean sea level.

(6) Rio Grande pueblo.-- The term “Rio Grande Pueblo" means any of the 18 Pueblos that--

(A) occupy land in the Rio Grande Basin; and

(B) are included on the list of federally recognized Indian tribes published by the Secretary in accordance with section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

(7) Secretary.-- The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) **Six Middle Rio Grande Pueblos.--** The term “Six Middle Rio Grande Pueblos" means each of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta.

(9) Special project.-- The term “special project" has the meaning given the term in the 2004 Agreement.

(10) State.-- The term “State" means the State of New Mexico.

(c) Irrigation Infrastructure Study.--

(1) Study.--

(A) In general.-- On the date of enactment of this Act, the Secretary, in accordance with subparagraph (B), and in consultation with the Rio Grande Pueblos, shall--

(i) conduct a study of Pueblo irrigation infrastructure; and
(ii) based on the results of the study, develop a list of projects (including a cost estimate for each project), that are recommended to be implemented over a 10-year period to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure.

(B) Required consent.-- In carrying out subparagraph (A), the Secretary shall only include each individual Rio Grande Pueblo that notifies the Secretary that the Pueblo consents to participate in--
(i) the conduct of the study under subparagraph (A)(i); and
(ii) the development of the list of projects under subparagraph (A)(ii) with respect to the Pueblo.

(2) Priority.--
(A) Consideration of factors.--
(i) In general.— In developing the list of projects under paragraph (1)(A)(ii), the Secretary shall--
(I) consider each of the factors described in subparagraph (B); and
(II) prioritize the projects recommended for implementation based on--
(aa) a review of each of the factors; and
(bb) a consideration of the projected benefits of the project on completion of the project.
(ii) Eligibility of projects.-- A project is eligible to be considered and prioritized by the Secretary if the project addresses at least 1 factor described in subparagraph (B).

(B) Factors.-- The factors referred to in subparagraph (A) are--
(i)(I) the extent of disrepair of the Pueblo irrigation infrastructure; and
(II) the effect of the disrepair on the ability of the applicable Rio Grande Pueblo to irrigate agricultural land using Pueblo irrigation infrastructure;
(ii) whether, and the extent that, the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would provide an opportunity to conserve water;
(iii)(I) the economic and cultural impacts that the Pueblo irrigation infrastructure that is in disrepair has on the applicable Rio Grande Pueblo; and (II) the economic and cultural benefits that the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would have on the applicable Rio Grande Pueblo;
(iv) the opportunity to address water supply or environmental conflicts in the applicable river basin if the Pueblo irrigation infrastructure is repaired, rehabilitated, or reconstructed; and
(v) the overall benefits of the project to efficient water operations on the land of the applicable Rio Grande Pueblo.

(3) Consultation.--In developing the list of projects under paragraph (1)(A)(ii), the Secretary shall consult with the Director of the Bureau of Indian Affairs (including the designated engineer with respect to each proposed project that affects the Six Middle Rio Grande Pueblos), the Chief of the Natural Resources Conservation Service, and the Chief of Engineers to evaluate the extent to which programs under the jurisdiction of the respective agencies may be used--

(A) to assist in evaluating projects to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure; and

(B) to implement--

(i) a project recommended for implementation under paragraph (1)(A)(ii); or

(ii) any other related project (including on-farm improvements) that may be appropriately coordinated with the repair, rehabilitation, or reconstruction of Pueblo irrigation infrastructure to improve the efficient use of water in the Rio Grande Basin.

(4) Report.-- Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that includes--

(A) the list of projects recommended for implementation under paragraph (1)(A)(ii); and

(B) any findings of the Secretary with respect to--

(i) the study conducted under paragraph (1)(A)(i);

(ii) the consideration of the factors under paragraph (2)(B); and

(iii) the consultations under paragraph (3).

(5) Periodic review.--Not later than 4 years after the date on which the Secretary submits the report under paragraph (4) and every 4 years thereafter, the Secretary, in consultation with each Rio Grande Pueblo, shall--

(A) review the report submitted under paragraph (4); and

(B) update the list of projects described in paragraph (4)(A) in accordance with each factor described in paragraph (2)(B), as the Secretary determines to be appropriate.

(d) Irrigation Infrastructure Grants.--

(1) In general.-- The Secretary may provide grants to, and enter into contracts or other agreements with, the Rio Grande Pueblos to plan, design, construct, or otherwise implement projects to repair, rehabilitate, reconstruct, or replace Pueblo irrigation infrastructure that are recommended for implementation under subsection (c)(1)(A)(ii)--

(A) to increase water use efficiency and agricultural productivity for the benefit of a Rio Grande Pueblo;

(B) to conserve water; or

(C) to otherwise enhance water management or help avert water supply conflicts in the Rio Grande Basin.

(2) Limitation.-- Assistance provided under paragraph (1) shall not be used for--

(A) the repair, rehabilitation, or reconstruction of any major impoundment structure; or

(B) any on-farm improvements.

(3) Consultation.-- In carrying out a project under paragraph (1), the Secretary shall--

(A) consult with, and obtain the approval of, the applicable Rio Grande Pueblo;

(B) consult with the Director of the Bureau of Indian Affairs; and

(C) as appropriate, coordinate the project with any work being conducted under the irrigation operations and maintenance program of the Bureau of Indian Affairs.

(4) Cost-sharing requirement.--

(A) Federal share.--

(i) In general.--Except as provided in clause (ii), the Federal share of the total cost of carrying out a project under paragraph (1) shall be not more than 75 percent.

(ii) Exception.-- The Secretary may waive or limit the non-Federal share required under clause (i) if the Secretary determines, based on a demonstration of financial hardship by the Rio Grande Pueblo, that the Rio Grande Pueblo is unable to contribute the required non-Federal share.

(B) District contributions.--

(i) In general.--The Secretary may accept from the District a partial or total contribution toward the non-Federal share required for a project carried out under paragraph (1) on land located in any of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a special project.

(ii) Limitation.--Nothing in clause (i) requires the District to contribute to the non-Federal share of the cost of a project carried out under paragraph (1).

(C) State contributions.--

(i) In general.--The Secretary may accept from the State a partial or total contribution toward the non-Federal share for a project carried out under paragraph (1).

(ii) Limitation.--Nothing in clause (i) requires the State to contribute to the non-Federal share of the cost of a project carried out under paragraph (1).

(D) Form of non-federal share.--The non-Federal share under subparagraph (A)(i) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under paragraph (1).

(5) Operation and maintenance.--The Secretary may not use any amount made available under subsection (g)(2) to carry out the operation or maintenance of any project carried out under paragraph (1).

(e) Effect on Existing Authority and Responsibilities.--Nothing in this section--

(1) affects any existing project-specific funding authority; or

(2) limits or absolves the United States from any responsibility to any Rio Grande Pueblo (including any responsibility arising from a trust relationship or from any Federal law (including regulations), Executive order, or agreement between the Federal Government and any Rio Grande Pueblo).

(f) Effect on Pueblo Water Rights or State Water Law.--

(1) Pueblo water rights.-- Nothing in this section (including the implementation of any project carried out in accordance with this section) affects the right of any Pueblo to receive, divert, store, or claim a right to water, including the priority of right and the quantity of water associated with the water right under Federal or State law.

(2) State water law.-- Nothing in this section preempts or affects--

(A) State water law; or

(B) an interstate compact governing water.

(g) Authorization of Appropriations.--

(1) Study.-- There is authorized to be appropriated to carry out subsection (c) $4,000,000.

(2) Projects.-- There is authorized to be appropriated to carry out subsection (d) $6,000,000 for each of fiscal years 2010 through 2019.

**Sec. 9107. [Upper Colorado River and Endangered Fish Programs.]**

(a) Definitions.-- Section 2 of Public Law 106-392 (114 Stat. 1602) is amended--

(1) in paragraph (5), by inserting ", rehabilitation, and repair" after "and replacement"; and

(2) in paragraph (6), by inserting "those for protection of critical habitat, those for preventing entrainment of fish in water diversions," after "instream flows,".

(b) Authorization To Fund Recovery Programs.-- Section 3 of Public Law 106-392 (114 Stat. 1603; 120 Stat. 290) is amended--

(1) in subsection (a)--

(A) in paragraph (1), by striking "$61,000,000" and inserting "$88,000,000";

(B) in paragraph (2), by striking "2010" and inserting "2023"; and

(C) in paragraph (3), by striking "2010" and inserting "2023";

(2) in subsection (b)--

(A) in the matter preceding paragraph (1), by striking "$126,000,000" and inserting "$209,000,000";

(B) in paragraph (1)--

(i) by striking "$108,000,000" and inserting "$179,000,000"; and

(ii) by striking "2010" and inserting "2023"; and

(C) in paragraph (2)--

(i) by striking "$18,000,000" and inserting "$30,000,000"; and

(ii) by striking "2010" and inserting "2023"; and

(3) in subsection (c)(4), by striking "$31,000,000" and inserting "$87,000,000".

**Sec. 9108. [Santa Margarita River, California.]**

(a) Definitions.-- In this section:

(1) District.-- The term "District" means the Fallbrook Public Utility District, San Diego County, California.

(2) Project.-- The term "Project" means the impoundment, recharge, treatment, and other facilities the construction, operation, watershed management, and maintenance of which is authorized under subsection (b).

(3) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(b) Authorization for Construction of Santa Margarita River Project.--

(1) Authorization.--The Secretary, acting pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), to the extent that law is not inconsistent with this section, may construct, operate, and maintain the Project substantially in accordance with the final feasibility report and environmental reviews for the Project and this section.

(2) Conditions.--The Secretary may construct the Project only after the Secretary determines that the following conditions have occurred:

(A)(i) The District and the Secretary of the Navy have entered into contracts under subsections (c)(2) and (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) to repay to the United States equitable and appropriate portions, as determined by the Secretary, of the actual costs of constructing, operating, and maintaining the Project.

(ii) As an alternative to a repayment contract with the Secretary of the Navy described in clause (i), the Secretary may allow the Secretary of the Navy to satisfy all or a portion of the repayment obligation for construction of the

Project on the payment of the share of the Secretary of the Navy prior to the initiation of construction, subject to a final cost allocation as described in subsection (c).

(B) The officer or agency of the State of California authorized by law to grant permits for the appropriation of water has granted the permits to the Bureau of Reclamation for the benefit of the Secretary of the Navy and the District as permittees for rights to the use of water for storage and diversion as provided in this section, including approval of all requisite changes in points of diversion and storage, and purposes and places of use.

(C)(i) The District has agreed--

(I) to not assert against the United States any prior appropriative right the District may have to water in excess of the quantity deliverable to the District under this section; and

(II) to share in the use of the waters impounded by the Project on the basis of equal priority and in accordance with the ratio prescribed in subsection (d)(2).

(ii) The agreement and waiver under clause (i) and the changes in points of diversion and storage under subparagraph (B)--

(I) shall become effective and binding only when the Project has been completed and put into operation; and

(II) may be varied by agreement between the District and the Secretary of the Navy.

(D) The Secretary has determined that the Project has completed applicable economic, environmental, and engineering feasibility studies.

(c) Costs.--

(1) In general.--As determined by a final cost allocation after completion of the construction of the Project, the Secretary of the Navy shall be responsible to pay upfront or repay to the Secretary only that portion of the construction, operation, and maintenance costs of the Project that the Secretary and the Secretary of the Navy determine reflects the extent to which the Department of the Navy benefits from the Project.

(2) Other contracts.-- Notwithstanding paragraph (1), the Secretary may enter into a contract with the Secretary of the Navy for the impoundment, storage, treatment, and carriage of prior rights water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using Project facilities.

(d) Operation; Yield Allotment; Delivery.--

(1) Operation.-- The Secretary, the District, or a third party (consistent with subsection (f)) may operate the Project, subject to a memorandum of agreement between the Secretary, the Secretary of the Navy, and the District and under regulations satisfactory to the Secretary of the Navy with respect to the share of the Project of the Department of the Navy.

(2) Yield allotment.-- Except as otherwise agreed between the parties, the Secretary of the Navy and the District shall participate in the Project yield on the basis of equal priority and in accordance with the following ratio:

(A) 60 percent of the yield of the Project is allotted to the Secretary of the Navy.

(B) 40 percent of the yield of the Project is allotted to the District.

(3) Contracts for delivery of excess water.--

(A) Excess water available to other persons.-- If the Secretary of the Navy certifies to the official agreed on to administer the Project that the Department of the Navy does not have immediate need for any portion of the 60 percent of the yield of the Project allotted to the Secretary of the Navy under paragraph (2), the official may enter into temporary contracts for the sale and delivery of the excess water.

(B) First right for excess water.-- The first right to excess water made available under subparagraph (A) shall be given the District, if otherwise consistent with the laws of the State of California.

(C) Condition of contracts.-- Each contract entered into under subparagraph (A) for the sale and delivery of excess water shall include a condition that the Secretary of the Navy has the right to demand the water, without charge and without obligation on the part of the United States, after 30 days notice.

(D) Modification of rights and obligations.--The rights and obligations of the United States and the District regarding the ratio, amounts, definition of Project yield, and payment for excess water may be modified by an agreement between the parties.

(4) Consideration.--

(A) Deposit of funds.--

(i) In general.-- Amounts paid to the United States under a contract entered into under paragraph (3) shall be--

(I) deposited in the special account established for the Department of the Navy under section 2667(e)(1) of title 10, United States Code; and

(II) shall be available for the purposes specified in section 2667(e)(1)(C) of that title.

(ii) Exception.--Section 2667(e)(1)(D) of title 10, United States Code, shall not apply to amounts deposited in the special account pursuant to this paragraph.

(B) In-kind consideration.-- In lieu of monetary consideration under subparagraph (A), or in addition to monetary consideration, the Secretary of the Navy may accept in-kind consideration in a form and quantity that is acceptable to the Secretary of the Navy, including--

(i) maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities of the Department of the Navy;

(ii) construction of new facilities for the Department of the Navy;

(iii) provision of facilities for use by the Department of the Navy;

(iv) facilities operation support for the Department of the Navy; and

(v) provision of such other services as the Secretary of the Navy considers appropriate.

(C) Relation to other laws.--Sections 2662 and 2802 of title 10, United States Code, shall not apply to any new facilities the construction of which is accepted as in-kind consideration under this paragraph.

(D) Congressional notification.-- If the in-kind consideration proposed to be provided under a contract to be entered into under paragraph (3) has a value in excess of $500,000, the contract may not be entered into until the earlier of--

(i) the end of the 30-day period beginning on the date on which the Secretary of the Navy submits to the Committee on Armed Services of the Senate and the

Committee on Armed Services of the House of Representatives a report describing the contract and the form and quantity of the in-kind consideration; or

(ii) the end of the 14-day period beginning on the date on which a copy of the report referred to in clause (i) is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

(e) Repayment Obligation of the District.--

(1) Determination.--

(A) In general.-- Except as otherwise provided in this paragraph, the general repayment obligation of the District shall be determined by the Secretary consistent with subsections (c)(2) and (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) to repay to the United States equitable and appropriate portions, as determined by the Secretary, of the actual costs of constructing, operating, and maintaining the Project.

(B) Groundwater.-- For purposes of calculating interest and determining the time when the repayment obligation of the District to the United States commences, the pumping and treatment of groundwater from the Project shall be deemed equivalent to the first use of water from a water storage project.

(C) Contracts for delivery of excess water.-- There shall be no repayment obligation under this subsection for water delivered to the District under a contract described in subsection (d)(3).

(2) Modification of rights and obligation by agreement.-- The rights and obligations of the United States and the District regarding the repayment obligation of the District may be modified by an agreement between the parties.

(f) Transfer of Care, Operation, and Maintenance.--

(1) In general.-- The Secretary may transfer to the District, or a mutually agreed upon third party, the care, operation, and maintenance of the Project under conditions that are-

(A) satisfactory to the Secretary and the District; and

(B) with respect to the portion of the Project that is located within the boundaries of Camp Pendleton, satisfactory to the Secretary, the District, and the Secretary of the Navy.

(2) Equitable credit.--

(A) In general.-- In the event of a transfer under paragraph (1), the District shall be entitled to an equitable credit for the costs associated with the proportionate share of the Secretary of the operation and maintenance of the Project.

(B) Application.-- The amount of costs described in subparagraph (A) shall be applied against the indebtedness of the District to the United States.

(g) Scope of Section.--

(1) In general.-- Except as otherwise provided in this section, for the purpose of this section, the laws of the State of California shall apply to the rights of the United States pertaining to the use of water under this section.

(2) Limitations.-- Nothing in this section--

(A) provides a grant or a relinquishment by the United States of any rights to the use of water that the United States acquired according to the laws of the State of California, either as a result of the acquisition of the land comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part

of that acquisition, or through actual use or prescription or both since the date of that acquisition, if any;

(B) creates any legal obligation to store any water in the Project, to the use of which the United States has those rights;

(C) requires the division under this section of water to which the United States has those rights; or

(D) constitutes a recognition of, or an admission by the United States that, the District has any rights to the use of water in the Santa Margarita River, which rights, if any, exist only by virtue of the laws of the State of California.

(h) Limitations on Operation and Administration.--Unless otherwise agreed by the Secretary of the Navy, the Project--

(1) shall be operated in a manner which allows the free passage of all of the water to the use of which the United States is entitled according to the laws of the State of California either as a result of the acquisition of the land comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of those acquisitions, or through actual use or prescription, or both, since the date of that acquisition, if any; and

(2) shall not be administered or operated in any way that will impair or deplete the quantities of water the use of which the United States would be entitled under the laws of the State of California had the Project not been built.

(i) Reports to Congress.--Not later than 2 years after the date of the enactment of this Act and periodically thereafter, the Secretary and the Secretary of the Navy shall each submit to the appropriate committees of Congress reports that describe whether the conditions specified in subsection (b)(2) have been met and if so, the manner in which the conditions were met.

(j) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section--

(1) $60,000,000, as adjusted to reflect the engineering costs indices for the construction cost of the Project; and

(1) such sums as are necessary to operate and maintain the Project.

(k) Sunset.--The authority of the Secretary to complete construction of the Project shall terminate on the date that is 10 years after the date of enactment of this Act.

**Sec. 9109. [Elsinore Valley Municipal Water District.]**

(a) In General.--The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9104(a)) is amended by adding at the end the following:

"SEC. 1650. ELSINORE VALLEY MUNICIPAL WATER DISTRICT PROJECTS, CA.

"(a) Authorization.-- The Secretary, in cooperation with the Elsinore Valley Municipal Water District, California, may participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to treat wastewater and provide recycled water in the Elsinore Valley Municipal Water District, California.

"(b) Cost Sharing.-- The Federal share of the cost of each project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.-- Funds provided by the Secretary under this section shall not be used for operation or maintenance of the projects described in subsection (a).

"(d) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $12,500,000.".

(b) Clerical Amendment.--The table of sections in section 2 of Public Law 102-575 (as amended by section 9104(b)) is amended by inserting after the item relating to section 1649 the following:

"Sec. 1650. Elsinore Valley Municipal Water District Projects, California.".

**Sec. 9110. [North Bay Water Reuse Authority.]**

(a) Project Authorization.--The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9109(a)) is amended by adding at the end the following:

"SEC. 1651. NORTH BAY WATER REUSE PROGRAM.

"(a) Definitions.--In this section:

"(1) Eligible entity.--The term `eligible entity' means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in--

"(A) Marin County;

"(B) Napa County;

"(C) Solano County; or

"(D) Sonoma County.

"(2) Water reclamation and reuse project.--The term `water reclamation and reuse project' means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to--

"(A) water quality improvement;

"(B) wastewater treatment;

"(C) water reclamation and reuse;

"(D) groundwater recharge and protection;

"(E) surface water augmentation; or

"(F) other red improvements.

"(3) State.--The term `State' means the State of California.

"(b) North Bay Water Reuse Program.--

"(1) In general.--Contingent upon a finding of feasibility, the Secretary, acting through a cooperative agreement with the State or a subdivision of the State, is authorized to enter into cooperative agreements with eligible entities for the planning, design, and construction of water reclamation and reuse facilities and recycled water conveyance and distribution systems.

"(2) Coordination with other federal agencies.--In carrying out this section, the Secretary and the eligible entity shall, to the maximum extent practicable, use the design work and environmental evaluations initiated by--

"(A) non-Federal entities; and

"(B) the Corps of Engineers in the San Pablo Bay Watershed of the State.

"(3) Phased project.--A cooperative agreement described in paragraph (1) shall require that the North Bay Water Reuse Program carried out under this section shall consist of 2 phases as follows:

"(A) First phase.-- During the first phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the main treatment and main conveyance systems.

"(B) Second phase.-- During the second phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the sub-regional distribution systems.

"(4) Cost sharing.--

"(A) Federal share.-- The Federal share of the cost of the first phase of the project authorized by this section shall not exceed 25 percent of the total cost of the first phase of the project.

"(B) Form of non-federal share.-- The Non-Federal share may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the water reclamation and reuse project, including--

"(i) reasonable costs incurred by the eligible entity relating to the planning, design, and construction of the water reclamation and reuse project; and

"(ii) the acquisition costs of land acquired for the project that is--

"(I) used for planning, design, and construction of the water reclamation and reuse project facilities; and

"(II) owned by an eligible entity and directly related to the project.

"(C) Limitation.-- The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(5) Effect.-- Nothing in this section--

"(A) affects or preempts--

"(i) State water law; or

"(ii) an interstate compact relating to the allocation of water; or

"(B) confers on any non-Federal entity the ability to exercise any Federal Right to--

"(i) the water of a stream; or

"(ii) any groundwater resource.

"(6) Authorization of appropriations.--There is authorized to be appropriated for the Federal share of the total cost of the first phase of the project authorized by this section $25,000,000, to remain available until expended.".

(b) Conforming Amendment.--The table of sections in section 2 of Public Law 102-575 (as amended by section 9109(b)) is amended by inserting after the item relating to section 1650 the following:

"Sec. 1651. North Bay water reuse program.".

**Sec. 9111. [Prado Basin Natural Treatment System Project, California.]**

(a) Prado Basin Natural Treatment System Project.--

(1) In general.--The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9110(a)) is amended by adding at the end the following:

“SEC. 1652. PRADO BASIN NATURAL TREATMENT SYSTEM PROJECT.

“(a) In General.--The Secretary, in cooperation with the Orange County Water District, shall participate in the planning, design, and construction of natural treatment systems and wetlands for the flows of the Santa Ana River, California, and its tributaries into the Prado Basin.

“(b) Cost Sharing.--The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

“(c) Limitation.--Funds provided by the Secretary shall not be used for the operation and maintenance of the project described in subsection (a).

“(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $10,000,000.

“(e) Sunset of Authority.--This section shall have no effect after the date that is 10 years after the date of the enactment of this section.".

(2) Conforming amendment.--The table of sections in section 2 of Public Law 102-575 (43 U.S.C. prec. 371) (as amended by section 9110(b)) is amended by inserting after the last item the following:

“1652. Prado Basin Natural Treatment System Project.".

(b) Lower Chino Dairy Area Desalination Demonstration and Reclamation Project.--

(1) In general.--The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) (as amended by subsection (a)(1)) is amended by adding at the end the following:

“SEC. 1653. LOWER CHINO DAIRY AREA DESALINATION DEMONSTRATION AND RECLAMATION PROJECT.

“(a) In General.--The Secretary, in cooperation with the Chino Basin Watermaster, the Inland Empire Utilities Agency, and the Santa Ana Watershed Project Authority and acting under the Federal reclamation laws, shall participate in the design, planning, and construction of the Lower Chino Dairy Area desalination demonstration and reclamation project.

“(b) Cost Sharing.--The Federal share of the cost of the project described in subsection (a) shall not exceed--

“(1) 25 percent of the total cost of the project; or

“(2) $26,000,000.

“(c) Limitation.--Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

“(d) Authorization of Appropriations.--There are authorized to be appropriated such sums as are necessary to carry out this section.

“(e) Sunset of Authority.--This section shall have no effect after the date that is 10 years after the date of the enactment of this section.".

(2) Conforming amendment.--The table of sections in section 2 of Public Law 102-575 (43 U.S.C. prec. 371) (as amended by subsection (a)(2)) is amended by inserting after the last item the following:

“1653. Lower Chino dairy area desalination demonstration and reclamation project.".

(c) Orange County Regional Water Reclamation Project.--Section 1624 of the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h-12j) is amended--

(1) in the section heading, by striking the words “phase 1 of the"; and
(2) in subsection (a), by striking “phase 1 of".

**Sec. 9112. [Bunker Hill Groundwater Basin, California.]**

(a) Definitions.-- In this section:

(1) District.-- The term “District" means the Western Municipal Water District, Riverside County, California.

(2) Project.--

(A) In general.-- The term “Project" means the Riverside-Corona Feeder Project.

(B) Inclusions.-- The term “Project" includes--

(i) 20 groundwater wells;
(ii) groundwater treatment facilities;
(iii) water storage and pumping facilities; and
(iv) 28 miles of pipeline in San Bernardino and Riverside Counties in the State of California.

(C) Secretary.-- The term “Secretary" means the Secretary of the Interior.

(b) Planning, Design, and Construction of Riverside-Corona Feeder.--

(1) In general.-- The Secretary, in cooperation with the District, may participate in the planning, design, and construction of the Project.

(2) Agreements and regulations.-- The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this subsection.

(3) Federal share.--

(A) Planning, design, construction.-- The Federal share of the cost to plan, design, and construct the Project shall not exceed the lesser of--

(i) an amount equal to 25 percent of the total cost of the Project; and
(ii) $26,000,000.

(B) Studies.-- The Federal share of the cost to complete the necessary planning studies associated with the Project--

(i) shall not exceed an amount equal to 50 percent of the total cost of the studies; and
(ii) shall be included as part of the limitation described in subparagraph (A).

(4) In-kind services.--The Non-Federal share of the cost of the Project may be provided in cash or in kind.

(5) Limitation.--Funds provided by the Secretary under this subsection shall not be used for operation or maintenance of the Project.

(6) Authorization of appropriations.--There is authorized to be appropriated to the Secretary to carry out this subsection the lesser of--

(A) an amount equal to 25 percent of the total cost of the Project; and
(B) $26,000,000.

**Sec. 9113. [Great Project, California.]**

(a) In General.--The Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102-575; 43 U.S.C. 390h et seq.) (as amended by section 9111(b)(1)) is amended by adding at the end the following:

"SEC. 1654. OXNARD, CALIFORNIA, WATER RECLAMATION, REUSE, AND TREATMENT PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the City of Oxnard, California, may participate in the design, planning, and construction of Phase I permanent facilities for the GREAT project to reclaim, reuse, and treat impaired water in the area of Oxnard, California.

"(b) Cost Share.--The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) Limitation.--The Secretary shall not provide funds for the following:

"(1) The operations and maintenance of the project described in subsection (a).

"(2) The construction, operations, and maintenance of the visitor's center related to the project described in subsection (a).

"(d) Sunset of Authority.--The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(b) Clerical Amendment.--The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (as amended by section 9111(b)(2)) is amended by inserting after the last item the following:

"Sec. 1654. Oxnard, California, water reclamation, reuse, and treatment project.".

**Sec. 9114. [Yucipa Valley Water District, California.]**

(a) In General.--The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 9113(a)) is amended by adding at the end the following:

"SEC. 1655. YUCAIPA VALLEY REGIONAL WATER SUPPLY RENEWAL PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the Yucaipa Valley Water District, may participate in the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the Santa Ana Watershed as described in the report submitted under section 1606.

"(b) Cost Sharing.--The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section $20,000,000.

"SEC. 1656. CITY OF CORONA WATER UTILITY, CALIFORNIA, WATER RECYCLING AND REUSE PROJECT.

"(a) Authorization.--The Secretary, in cooperation with the City of Corona Water Utility, California, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the City of Corona Water Utility, California.

"(b) Cost Share.--The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.--The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.".

(b) Conforming Amendments.--The table of sections in section 2 of Public Law 102-575 (as amended by section 9114(b)) is amended by inserting after the last item the following:

"Sec. 1655. Yucaipa Valley Regional Water Supply Renewal Project.

"Sec. 1656. City of Corona Water Utility, California, water recycling and reuse project.".

**Sec. 9115. [Arkansas Valley Conduit, Colorado.]**

(a) Cost Share.--The first section of Public Law 87-590 (76 Stat. 389) is amended in the second sentence of subsection (c) by inserting after "cost thereof," the following: "or in the case of the Arkansas Valley Conduit, payment in an amount equal to 35 percent of the cost of the conduit that is comprised of revenue generated by payments pursuant to a repayment contract and revenue that may be derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities,".

(b) Rates.--Section 2(b) of Public Law 87-590 (76 Stat. 390) is amended--

(1) by striking "(b) Rates" and inserting the following:

"(b) Rates.--

"(1) In general.-- Rates"; and

(2) by adding at the end the following:

"(2) Ruedi Dam and Reservoir, fountain valley pipeline, and south outlet works at Pueblo Dam and Reservoir.--

"(A) In general.-- Notwithstanding the reclamation laws, until the date on which the payments for the Arkansas Valley Conduit under paragraph (3) begin, any revenue that may be derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities shall be credited towards payment of the actual cost of Ruedi Dam and Reservoir, the Fountain Valley Pipeline, and the South Outlet Works at Pueblo Dam and Reservoir plus interest in an amount determined in accordance with this section.

"(B) Effect.-- Nothing in the Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)) prohibits the concurrent crediting of revenue (with interest as provided under this section) towards payment of the Arkansas Valley Conduit as provided under this paragraph.

"(3) Arkansas valley conduit.--

"(A) Use of revenue.-- Notwithstanding the reclamation laws, any revenue derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities shall be credited towards payment of the actual cost of the Arkansas Valley Conduit plus interest in an amount determined in accordance with this section.

"(B) Adjustment of rates.-- Any rates charged under this section for water for municipal, domestic, or industrial use or for the use of facilities for the storage or delivery of water shall be adjusted to reflect the estimated revenue derived from contracts for the use of Fryingpan-Arkansas project excess capacity or exchange contracts using Fryingpan-Arkansas project facilities.".

(c) Authorization of Appropriations.-- Section 7 of Public Law 87-590 (76 Stat. 393) is amended-

(1) by striking "Sec. 7. There is hereby" and inserting the following:

“SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

“(a) In General.-- There is"; and

(2) by adding at the end the following:

“(b) Arkansas Valley Conduit.--

“(1) In general.--Subject to annual appropriations and paragraph (2), there are authorized to be appropriated such sums as are necessary for the construction of the Arkansas Valley Conduit.

“(2) Limitation.--Amounts made available under paragraph (1) shall not be used for the operation or maintenance of the Arkansas Valley Conduit.".

**Subtitle C--Title Transfers and Clarifications**

**Sec. 9201. [Transfer of McGee Creek Pipeline and Facilities.]**

(a) Definitions.-- In this section:

(1) Agreement.-- The term “Agreement" means the agreement numbered 06-AG-60-2115 and entitled ``Agreement Between the United States of America and McGee Creek Authority for the Purpose of Defining Responsibilities Related to and Implementing the Title Transfer of Certain Facilities at the McGee Creek Project, Oklahoma".

(2) Authority.-- The term “Authority" means the McGee Creek Authority located in Oklahoma City, Oklahoma.

(3) Secretary.-- The term “Secretary" means the Secretary of the Interior.

(b) Conveyance of Mcgee Creek Project Pipeline and Associated Facilities.--

(1) Authority to convey.--

(A) In general.-- In accordance with all applicable laws and consistent with any terms and conditions provided in the Agreement, the Secretary may convey to the Authority all right, title, and interest of the United States in and to the pipeline and any associated facilities described in the Agreement, including—

(i) the pumping plant;

(ii) the raw water pipeline from the McGee Creek pumping plant to the rate of flow control station at Lake Atoka;

(iii) the surge tank;

(iv) the regulating tank;

(v) the McGee Creek operation and maintenance complex, maintenance shop, and pole barn; and

(vi) any other appurtenances, easements, and fee title land associated with the facilities described in clauses (i) through (v), in accordance with the Agreement.

(B) Exclusion of mineral estate from conveyance.--

(i) In general.-- The mineral estate shall be excluded from the conveyance of any land or facilities under subparagraph (A).

(ii) Management.-- Any mineral interests retained by the United States under this section shall be managed--

(I) consistent with Federal law; and

(II) in a manner that would not interfere with the purposes for which the McGee Creek Project was authorized.

(C) Compliance with agreement; applicable law.--

(i) Agreement.-- All parties to the conveyance under subparagraph (A) shall comply with the terms and conditions of the Agreement, to the extent consistent with this section.

(ii) Applicable law.-- Before any conveyance under subparagraph (A), the Secretary shall complete any actions required under—

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

(II) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(III) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(IV) any other applicable laws.

(2) Operation of transferred facilities.--

(A) In general.-- On the conveyance of the land and facilities under paragraph (1)(A), the Authority shall comply with all applicable Federal, State, and local laws (including regulations) in the operation of any transferred facilities.

(B) Operation and maintenance costs.--

(i) In general.-- After the conveyance of the land and facilities under paragraph (1)(A) and consistent with the Agreement, the Authority shall be responsible for all duties and costs associated with the operation, replacement, maintenance, enhancement, and betterment of the transferred land and facilities.

(ii) Limitation on funding.-- The Authority shall not be eligible to receive any Federal funding to assist in the operation, replacement, maintenance, enhancement, and betterment of the transferred land and facilities, except for funding that would be available to any comparable entity that is not subject to reclamation laws.

(3) Release from liability.--

(A) In general.-- Effective beginning on the date of the conveyance of the land and facilities under paragraph (1)(A), the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to any land or facilities conveyed, except for damages caused by acts of negligence committed by the United States (including any employee or agent of the United States) before the date of the conveyance.

(B) No additional liability.--Nothing in this paragraph adds to any liability that the United States may have under chapter 171 of title 28, United States Code.

(4) Contractual obligations.--

(A) In general.--Except as provided in subparagraph (B), any rights and obligations under the contract numbered 0-07-50-X0822 and dated October 11, 1979, between the Authority and the United States for the construction,
operation, and maintenance of the McGee Creek Project, shall remain in full force and effect.

(B) Amendments.--With the consent of the Authority, the Secretary may amend the contract described in subparagraph (A) to reflect the conveyance of the land and facilities under paragraph (1)(A).

(5) Applicability of the reclamation laws.--Notwithstanding the conveyance of the land and facilities under paragraph (1)(A), the reclamation laws shall continue to apply to any project water provided to the Authority.

**Sec. 9202. [Albuquerque Biological Park, New Mexico, Title Clarification.]**

(a) Purpose.--The purpose of this section is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach, San Gabriel Park, or the BioPark Parcels to the City, thereby removing a potential cloud on the City's title to these lands.

(b) Definitions.-- In this section:

(1) City.-- The term “City" means the City of Albuquerque, New Mexico.

(2) Biopark parcels.-- The term “BioPark Parcels" means a certain area of land containing 19.16 acres, more or less, situated within the Town of Albuquerque Grant, in Projected Section 13, Township 10 North, Range 2 East, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, comprised of the following platted tracts and lot, and MRGCD tracts:

(A) Tracts A and B, Albuquerque Biological Park, as the same are shown and designated on the Plat of Tracts A & B, Albuquerque Biological Park, recorded in the Office of the County Clerk of Bernalillo County, New Mexico on February 11, 1994 in Book 94C, Page 44; containing 17.9051 acres, more or less.

(B) Lot B-1, Roger Cox Addition, as the same is shown and designated on the Plat of Lots B-1 and B-2 Roger Cox Addition, recorded in the Office of the County Clerk of Bernalillo County, New Mexico on October 3, 1985 in Book C28, Page 99; containing 0.6289 acres, more or less.

(C) Tract 361 of MRGCD Map 38, bounded on the north by Tract A, Albuquerque Biological Park, on the east by the westerly right-of-way of Central Avenue, on the south by Tract 332B MRGCD Map 38, and on the west by Tract B, Albuquerque Biological Park; containing 0.30 acres, more or less.

(D) Tract 332B of MRGCD Map 38; bounded on the north by Tract 361, MRGCD Map 38, on the west by Tract 32A-1-A, MRGCD Map 38, and on the south and east by the westerly right-of-way of Central Avenue; containing 0.25 acres, more or less.

(E) Tract 331A-1A of MRGCD Map 38, bounded on the west by Tract B, Albuquerque Biological Park, on the east by Tract 332B, MRGCD Map 38, and on the south by the westerly right-of-way of Central Avenue and Tract A, Albuquerque Biological Park; containing 0.08 acres, more or less.

(3) Middle Rio Grande conservancy district.--The terms “Middle Rio Grande Conservancy District" and “MRGCD" mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(4) Middle Rio Grande Project.--The term “Middle Rio Grande Project" means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80-858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81-516; 64 Stat. 170).

(5) San Gabriel Park.--The term “San Gabriel Park" means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(6) Tingley beach.--The term “Tingley Beach" means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, and secs. 18 and 19, T10N, R3E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(c) Clarification of Property Interest.--

(1) Required action.-- The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach, San Gabriel Park, and the BioPark Parcels to the City.

(2) Timing.-- The Secretary shall carry out the action in paragraph (1) as soon as practicable after the date of enactment of this Act and in accordance with all applicable law.

(3) No additional payment.--The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park, Tingley Beach, and the BioPark Parcels.

(d) Other Rights, Title, and Interests Unaffected.--

(1) In general.-- Except as expressly provided in subsection (c), nothing in this section shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(2) Ongoing litigation.--Nothing contained in this section shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, 99-CV-01320-JAP-RHS, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

**Sec. 9203. [Goleta Water District Water Distribution System, California.]**

(a) Definitions.--In this section:

(1) Agreement.-- The term “Agreement" means Agreement No. 07-LC-20-9387 between the United States and the District, entitled “Agreement Between the United States and the Goleta Water District to Transfer Title of the Federally Owned Distribution System to the Goleta Water District".

(2) District.-- The term “District" means the Goleta Water District, located in Santa Barbara County, California.

(3) Goleta water distribution system.--The term “Goleta Water Distribution System" means the facilities constructed by the United States to enable the District to convey water to its water users, and associated lands, as described in Appendix A of the Agreement.

(4) Secretary.-- The term “Secretary" means the Secretary of the Interior.

(b) Conveyance of the Goleta Water Distribution System.--The Secretary is authorized to convey to the District all right, title, and interest of the United States in and to the Goleta Water Distribution System of the Cachuma Project, California, subject to valid existing rights and consistent with the terms and conditions set forth in the Agreement.

(c) Liability.--Effective upon the date of the conveyance authorized by subsection (b), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the lands, buildings, or facilities conveyed under this section, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section increases the

liability of the United States beyond that provided in chapter 171 of title 28, United States Code (popularly known as the Federal Tort Claims Act).

(d) Benefits.--After conveyance of the Goleta Water Distribution System under this section--

(1) such distribution system shall not be considered to be a part of a Federal reclamation project; and

(2) the District shall not be eligible to receive any benefits with respect to any facility comprising the Goleta Water Distribution System, except benefits that would be available to a similarly situated entity with respect to property that is not part of a Federal reclamation project.

(e) Compliance with Other Laws.--

(1) Compliance with environmental and historic preservation laws.--Prior to any conveyance under this section, the Secretary shall complete all actions required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and all other applicable laws.

(2) Compliance by the district.--Upon the conveyance of the Goleta Water Distribution System under this section, the District shall comply with all applicable Federal, State, and local laws and regulations in its operation of the facilities that are transferred.

(3) Applicable authority.--All provisions of Federal reclamation law (the Act of June 17, 1902 (43 U.S.C. 371 et seq.) and Acts supplemental to and amendatory of that Act) shall continue to be applicable to project water provided to the District.

(f) Report.-- If, 12 months after the date of the enactment of this Act, the Secretary has not completed the conveyance required under subsection (b), the Secretary shall complete a report that states the reason the conveyance has not been completed and the date by which the conveyance shall be completed. The Secretary shall submit a report required under this subsection to Congress not later than 14 months after the date of the enactment of this Act.

**Subtitle D--San Gabriel Basin Restoration Fund**

**Sec. 9301. [Restoration Fund.]--** Section 110 of division B of the Miscellaneous Appropriations Act, 2001 (114 Stat. 2763A-222), as enacted into law by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (Public Law 106-554, as amended by Public Law 107-66), is further amended--

(1) in subsection (a)(3)(B), by inserting after clause (iii) the following:

"(iv) Non-federal match.--After $85,000,000 has cumulatively been appropriated under subsection (d)(1), the remainder of Federal funds appropriated under subsection (d) shall be subject to the following matching requirement:

"(I) San Gabriel Basin Water Quality Authority.--The San Gabriel Basin Water Quality Authority shall be responsible for providing a 35 percent non-Federal match for Federal funds made available to the Authority under this Act.

"(II) Central basin municipal water district.--The Central Basin Municipal Water District shall be responsible for providing a 35 percent non-Federal match for Federal funds made available to the District under this Act.";

(2) in subsection (a), by adding at the end the following:

"(4) Interest on funds in restoration fund.--No amounts appropriated above the cumulative amount of $85,000,000 to the Restoration Fund under subsection (d)(1)

shall be invested by the Secretary of the Treasury in interest-bearing securities of the United States."; and

(3) by amending subsection (d) to read as follows:

"(d) Authorization of Appropriations.--

"(1) In general.--There is authorized to be appropriated to the Restoration Fund established under subsection (a) $146,200,000. Such funds shall remain available until expended.

"(2) Set-aside.--Of the amounts appropriated under paragraph (1), no more than $21,200,000 shall be made available to carry out the Central Basin Water Quality Project.".

**Subtitle E--Lower Colorado River Multi-Species Conservation Program**

**Sec. 9401. [Definitions.]**-- In this subtitle:

(1) Lower Colorado river multi-species conservation program.--The term "Lower Colorado River Multi-Species Conservation Program" or "LCR MSCP" means the cooperative effort on the Lower Colorado River between Federal and non-Federal entities in Arizona, California, and Nevada approved by the Secretary of the Interior on April 2, 2005.

(2) Lower Colorado River.-- The term "Lower Colorado River" means the segment of the Colorado River within the planning area as provided in section 2(B) of the Implementing Agreement, a Program Document.

(3) Program documents.-- The term "Program Documents" means the Habitat Conservation Plan, Biological Assessment and Biological and Conference Opinion, Environmental Impact Statement/Environmental Impact Report, Funding and Management Agreement, Implementing Agreement, and Section 10(a)(1)(B) Permit issued and, as applicable,
executed in connection with the LCR MSCP, and any amendments or successor documents that are developed consistent with existing agreements and applicable law.

(4) Secretary.-- The term "Secretary" means the Secretary of the Interior.

(5) State.-- The term "State" means each of the States of Arizona, California, and Nevada.

**Sec. 9402. [Implementation and Water Accounting.]**

(a) Implementation.-- The Secretary is authorized to manage and implement the LCR MSCP in accordance with the Program Documents.

(b) Water Accounting.-- The Secretary is authorized to enter into an agreement with the States providing for the use of water from the Lower Colorado River for habitat creation and maintenance in accordance with the Program Documents.

**Sec. 9403. [Enforceability of Program Documents.]**

(a) In General.-- Due to the unique conditions of the Colorado River, any party to the Funding and Management Agreement or the Implementing Agreement, and any permittee under the Section 10(a)(1)(B) Permit, may commence a civil action in United States district court to adjudicate, confirm, validate or decree the rights and obligations of the parties under those Program Documents.

(b) Jurisdiction.--The district court shall have jurisdiction over such actions and may issue such orders, judgments, and decrees as are consistent with the court's exercise of jurisdiction under this section.

(c) United States as Defendant.--

(1) In general.--The United States or any agency of the United States may be named as a defendant in such actions.

(2) Sovereign immunity.--Subject to paragraph (3), the sovereign immunity of the United States is waived for purposes of actions commenced pursuant to this section.

(3) Nonwaiver for certain claims.--Nothing in this section waives the sovereign immunity of the United States to claims for money damages, monetary compensation, the provision of indemnity, or any claim seeking money from the United States.

(d) Rights Under Federal and State Law.--

(1) In general.-- Except as specifically provided in this section, nothing in this section limits any rights or obligations of any party under Federal or State law.

(2) Applicability to Lower Colorado River multi-species conservation program.-- This section--

(A) shall apply only to the Lower Colorado River Multi-Species Conservation Program; and

(B) shall not affect the terms of, or rights or obligations under, any other conservation plan created pursuant to any Federal or State law.

(e) Venue.-- Any suit pursuant to this section may be brought in any United States district court in the State in which any non-Federal party to the suit is situated.

**Sec. 9404. [Authorization of Appropriations.]**

(a) In General.-- There is authorized to be appropriated to the Secretary such sums as may be necessary to meet the obligations of the Secretary under the Program Documents, to remain available until expended.

(b) Non-Reimbursable and Non-Returnable.-- All amounts appropriated to and expended by the Secretary for the LCR MSCP shall be non-reimbursable and non-returnable.

**Subtitle F--Secure Water**

**Sec. 9501. [Findings.]--** Congress finds that--

(1) adequate and safe supplies of water are fundamental to the health, economy, security, and ecology of the United States;

(2) systematic data-gathering with respect to, and research and development of, the water resources of the United States will help ensure the continued existence of sufficient quantities of water to support—

(A) increasing populations;

(B) economic growth;

(C) irrigated agriculture;

(D) energy production; and

(E) the protection of aquatic ecosystems;

(3) global climate change poses a significant challenge to the protection and use of the water resources of the United States due to an increased uncertainty with respect to the timing, form, and geographical distribution of precipitation, which may have a substantial effect on the supplies of water for agricultural, hydroelectric power, industrial, domestic supply, and environmental needs;

(4) although States bear the primary responsibility and authority for managing the water resources of the United States, the Federal Government should support the States, as well as regional, local, and tribal governments, by carrying out—

(A) nationwide data collection and monitoring activities;

(B) relevant research; and

(C) activities to increase the efficiency of the use of water in the United States;

(5) Federal agencies that conduct water management and related activities have a responsibility-

(A) to take a lead role in assessing risks to the water resources of the United States (including risks posed by global climate change); and

(B) to develop strategies--

(i) to mitigate the potential impacts of each risk described in subparagraph (A); and

(ii) to help ensure that the long-term water resources management of the United States is sustainable and will ensure sustainable quantities of water;

(6) it is critical to continue and expand research and monitoring efforts--

(A) to improve the understanding of the variability of the water cycle; and

(B) to provide basic information necessary--

(i) to manage and efficiently use the water resources of the United States; and

(ii) to identify new supplies of water that are capable of being reclaimed; and

(7) the study of water use is vital--

(A) to the understanding of the impacts of human activity on water and ecological resources; and

(B) to the assessment of whether available surface and groundwater supplies will be available to meet the future needs of the United States.

**Sec. 9502. [Definitions.]** In this section:

(1) Administrator.--The term “Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) Advisory committee.-- The term “Advisory Committee" means the National Advisory Committee on Water Information established--

(A) under the Office of Management and Budget Circular 92-01; and

(B) to coordinate water data collection activities.

(3) Assessment program.-- The term “assessment program" means the water availability and use assessment program established by the Secretary under section 9508(a).

(4) Climate division.-- The term “climate division" means 1 of the 359 divisions in the United States that represents 2 or more regions located within a State that are as climatically homogeneous as possible, as determined by the Administrator.

(5) Commissioner.-- The term “Commissioner" means the Commissioner of Reclamation.

(6) Director.-- The term “Director" means the Director of the United States Geological Survey.

(7) Eligible applicant.-- The term “eligible applicant" means any State, Indian tribe, irrigation district, water district, or other organization with water or power delivery authority.

(8) Federal power marketing administration.-- The term “Federal Power Marketing Administration" means--

(A) the Bonneville Power Administration;

(B) the Southeastern Power Administration;

(C) the Southwestern Power Administration; and

(D) the Western Area Power Administration.

(9) Hydrologic accounting unit.-- The term “hydrologic accounting unit" means 1 of the 352 river basin hydrologic accounting units used by the United States Geological Survey.

(10) Indian tribe.--The term “Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) Major aquifer system.--The term “major aquifer system" means a groundwater system that is--

(A) identified as a significant groundwater system by the Director; and
(B) included in the Groundwater Atlas of the United States, published by the United States Geological Survey.

(12) Major reclamation river basin.--
(A) In general.-- The term “major reclamation river basin" means each major river system (including tributaries)--
(i) that is located in a service area of the Bureau of Reclamation; and
(ii) at which is located a federally authorized project of the Bureau of Reclamation.
(B) Inclusions.-- The term “major reclamation river basin" includes--
(i) the Colorado River;
(ii) the Columbia River;
(iii) the Klamath River;
(iv) the Missouri River;
(v) the Rio Grande;
(vi) the Sacramento River;
(vii) the San Joaquin River; and
(viii) the Truckee River.

(13) Non-federal participant.-- The term “non-Federal participant" means--
(A) a State, regional, or local authority;
(B) an Indian tribe or tribal organization; or
(C) any other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association, or a nongovernmental organization.

14) Panel.-- The term “panel" means the climate change and water intragovernmental panel established by the Secretary under section 9506(a).

(15) Program.-- The term “program" means the regional integrated sciences and assessments program--
(A) established by the Administrator; and
(B) that is comprised of 8 regional programs that use advances in integrated climate sciences to assist decisionmaking processes.

(16) Secretary.--
(A) In general.-- Except as provided in subparagraph (B), the term “Secretary" means the Secretary of the Interior.
(B) Exceptions.-- The term “Secretary" means--
(i) in the case of sections 9503, 9504, and 9509, the Secretary of the Interior (acting through the Commissioner); and
(ii) in the case of sections 9507 and 9508, the Secretary of the Interior (acting through the Director).

(17) Service area.--The term “service area" means any area that encompasses a watershed that contains a federally authorized reclamation project that is located in any State or area described in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

**Sec. 9503. [Reclamation Climate Change and Water Program.]**

(a) In General.--The Secretary shall establish a climate change adaptation program--

(1) to coordinate with the Administrator and other appropriate agencies to assess each effect of, and risk resulting from, global climate change with respect to the quantity of water resources located in a service area; and

(2) to ensure, to the maximum extent possible, that strategies are developed at watershed and aquifer system scales to address potential water shortages, conflicts, and other impacts to water users located at, and the environment of, each service area.

(b) Required Elements.-- In carrying out the program described in subsection (a), the Secretary shall--

(1) coordinate with the United States Geological Survey, the National Oceanic and Atmospheric Administration, the program, and each appropriate State water resource agency, to ensure that the Secretary has access to the best available scientific information with respect to presently observed and projected future impacts of global climate change on water resources;

(2) assess specific risks to the water supply of each major reclamation river basin, including any risk relating to--

(A) a change in snowpack;

(B) changes in the timing and quantity of runoff;

(C) changes in groundwater recharge and discharge; and

(D) any increase in--

(i) the demand for water as a result of increasing temperatures; and

(ii) the rate of reservoir evaporation;

(3) with respect to each major reclamation river basin, analyze the extent to which changes in the water supply of the United States will impact--

(A) the ability of the Secretary to deliver water to the contractors of the Secretary;

(B) hydroelectric power generation facilities;

(C) recreation at reclamation facilities;

(D) fish and wildlife habitat;

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

(F) water quality issues (including salinity levels of each major reclamation river basin);

(G) flow and water dependent ecological resiliency; and

(H) flood control management;

(4) in consultation with appropriate non-Federal participants, consider and develop appropriate strategies to mitigate each impact of water supply changes analyzed by the Secretary under paragraph (3), including strategies relating to--

(A) the modification of any reservoir storage or operating guideline in existence as of the date of enactment of this Act;

(B) the development of new water management, operating, or habitat restoration plans;

(C) water conservation;

(D) improved hydrologic models and other decision support systems; and

(E) groundwater and surface water storage needs; and

(5) in consultation with the Director, the Administrator, the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service), and applicable State water resource agencies, develop a monitoring plan to acquire and maintain water resources data--

(A) to strengthen the understanding of water supply trends; and

(B) to assist in each assessment and analysis conducted by the Secretary under paragraphs (2) and (3).

(c) Reporting.-- Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report that describes--

(1) each effect of, and risk resulting from, global climate change with respect to the quantity of water resources located in each major reclamation river basin;

(2) the impact of global climate change with respect to the operations of the Secretary in each major reclamation river basin;

(3) each mitigation and adaptation strategy considered and implemented by the Secretary to address each effect of global climate change described in paragraph (1);

(4) each coordination activity conducted by the Secretary with--

(A) the Director;

(B) the Administrator;

(C) the Secretary of Agriculture (acting through the Chief of the Natural Resources Conservation Service); or

(D) any appropriate State water resource agency; and

(5) the implementation by the Secretary of the monitoring plan developed under subsection (b)(5).

(d) Feasibility Studies.--

(1) Authority of secretary.-- The Secretary, in cooperation with any non-Federal participant, may conduct 1 or more studies to determine the feasibility and impact on ecological resiliency of implementing each mitigation and adaptation strategy described in subsection (c)(3), including the construction of any water supply, water management, environmental, or habitat enhancement water infrastructure that the Secretary determines to be necessary to address the effects of global climate change on water resources located in each major reclamation river basin.

(2) Cost sharing.--

(A) Federal share.--

(i) In general.-- Except as provided in clause (ii), the Federal share of the cost of a study described in paragraph (1) shall not exceed 50 percent of the cost of the study.

(ii) Exception relating to financial hardship.-- The Secretary may increase the Federal share of the cost of a study described in paragraph (1) to exceed 50 percent of the cost of the study if the Secretary determines that, due to a financial hardship, the non-Federal participant of the study is unable to contribute an amount equal to 50 percent of the cost of the study.

(B) Non-federal share.-- The Non-Federal share of the cost of a study described in paragraph (1) may be provided in the form of any in-kind services that

substantially contribute toward the completion of the study, as determined by the Secretary.

(e) No Effect on Existing Authority.-- Nothing in this section amends or otherwise affects any existing authority under reclamation laws that govern the operation of any Federal reclamation project.

(f) Authorization of Appropriations.-- There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2023, to remain available until expended.

**Sec. 9504. [Water Management Improvement.]**

(a) Authorization of Grants and Cooperative Agreements.--

(1) Authority of secretary.-- The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement--

(A) to conserve water;

(B) to increase water use efficiency;

(C) to facilitate water markets;

(D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;

(E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;

(F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);

(G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or

(H) to carry out any other activity--

(i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or

(ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area.

(2) Application.-- To be eligible to receive a grant, or enter into an agreement with the Secretary under paragraph (1), an eligible applicant shall--

(A) be located within the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

(B) submit to the Secretary an application that includes a proposal of the improvement or activity to be planned, designed, constructed, or implemented by the eligible applicant.

(3) Requirements of grants and cooperative agreements.--

(A) Compliance with requirements.-- Each grant and agreement entered into by the Secretary with any eligible applicant under paragraph (1) shall be in compliance with each requirement described in subparagraphs (B) through (F).

(B) Agricultural operations.-- In carrying out paragraph (1), the Secretary shall not provide a grant, or enter into an agreement, for an improvement to conserve irrigation water unless the eligible applicant agrees not—

(i) to use any associated water savings to increase the total irrigated acreage of the eligible applicant; or

(ii) to otherwise increase the consumptive use of water in the operation of the eligible applicant, as determined pursuant to the law of the State in which the operation of the eligible applicant is located.

(C) Nonreimbursable funds.-- Any funds provided by the Secretary to an eligible applicant through a grant or agreement under paragraph (1) shall be nonreimbursable.

(D) Title to improvements.-- If an infrastructure improvement to a federally owned facility is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1), the Federal Government shall continue to hold title to the facility and improvements to the facility.

(E) Cost sharing.--

(i) Federal share.-- The Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.

(ii) Calculation of non-federal share.-- In calculating the non-Federal share of the cost of an infrastructure improvement or activity proposed by an eligible applicant through an application submitted by the eligible applicant under paragraph (2), the Secretary shall--

(I) consider the value of any in-kind services that substantially contributes toward the completion of the improvement or activity, as determined by the Secretary; and

(II) not consider any other amount that the eligible applicant receives from a Federal agency.

(iii) Maximum amount.—The amount provided to an eligible applicant through a grant or other agreement under paragraph (1) shall be not more than $5,000,000.

(iv) Operation and maintenance costs.-- The Non-Federal share of the cost of operating and maintaining any infrastructure improvement that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall be 100 percent.

(F) Liability.--

(i) In general.--Except as provided under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act"), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this section, the title of which is not held by the United States.

(ii) Tort claims act.-- Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(b) Research Agreements.--

(1) Authority of secretary.-- The Secretary may enter into 1 or more agreements with any university, nonprofit research institution, or organization with water or power delivery authority to fund any research activity that is designed--

(A) to conserve water resources;

(B) to increase the efficiency of the use of water resources; or

(C) to enhance the management of water resources, including increasing the use of renewable energy in the management and delivery of water.

(2) Terms and conditions of secretary.--

(A) In general.-- An agreement entered into between the Secretary and any university, institution, or organization described in paragraph (1) shall be subject to such terms and conditions as the Secretary determines to be appropriate.

(B) Availability.-- The agreements under this subsection shall be available to all Reclamation projects and programs that may benefit from project-specific or programmatic cooperative research and development.

(c) Mutual Benefit.-- Grants or other agreements made under this section may be for the mutual benefit of the United States and the entity that is provided the grant or enters into the cooperative agreement.

(d) Relationship to Project-Specific Authority.-- This section shall not supersede any existing project-specific funding authority.

(e) Authorization of Appropriations.-- There is authorized to be appropriated to carry out this section $200,000,000, to remain available until expended.

**Sec. 9505. [Hydroelectric Power Assessment.]**

(a) Duty of Secretary of Energy.-- The Secretary of Energy, in consultation with the Administrator of each Federal Power Marketing Administration, shall assess each effect of, and risk resulting from, global climate change with respect to water supplies that are required for the generation of hydroelectric power at each Federal water project that is applicable to a Federal Power Marketing Administration.

(b) Access to Appropriate Data.--

(1) In general.-- In carrying out each assessment under subsection (a), the Secretary of Energy shall consult with the United States Geological Survey, the National Oceanic and Atmospheric Administration, the program, and each appropriate State water resource agency, to ensure that the Secretary of Energy has access to the best available scientific information with respect to presently observed impacts and projected future impacts of global climate change on water supplies that are used to produce hydroelectric power.

(2) Access to data for certain assessments.-- In carrying out each assessment under subsection (a), with respect to the Bonneville Power Administration and the Western Area Power Administration, the Secretary of Energy shall consult with the Commissioner to access data and other information that--

(A) is collected by the Commissioner; and

(B) the Secretary of Energy determines to be necessary for the conduct of the assessment.

(c) Report.-- Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary of Energy shall submit to the appropriate committees of Congress a report that describes--

(1) each effect of, and risk resulting from, global climate change with respect to--

(A) water supplies used for hydroelectric power generation; and
(B) power supplies marketed by each Federal Power Marketing Administration, pursuant to--
(i) long-term power contracts;
(ii) contingent capacity contracts; and
(iii) short-term sales; and
(2) each recommendation of the Administrator of each Federal Power Marketing Administration relating to any change in any operation or contracting practice of each Federal Power Marketing Administration to address each effect and risk described in paragraph (1), including the use of purchased power to meet long-term commitments of each Federal Power Marketing Administration.

(d) Authority.--The Secretary of Energy may enter into contracts, grants, or other agreements with appropriate entities to carry out this section.

(e) Costs.--
(1) Nonreimbursable.--Any costs incurred by the Secretary of Energy in carrying out this section shall be nonreimbursable.
(2) PMA costs.--Each Federal Power Marketing Administration shall incur costs in carrying out this section only to the extent that appropriated funds are provided by the Secretary of Energy for that purpose.

(f) Authorization of Appropriations.--There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2023, to remain available until expended.

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**Sec. 9507. [Water Data Enhancement by United States Geological Survey.]**

(a) National Streamflow Information Program.--
(1) In general.-- The Secretary, in consultation with the Advisory Committee and the Panel and consistent with this section, shall proceed with implementation of the national streamflow information program, as reviewed by the National Research Council in 2004.
(2) Requirements.-- In conducting the national streamflow information program, the Secretary shall--
(A) measure streamflow and related environmental variables in nationally significant watersheds--
(i) in a reliable and continuous manner; and
(ii) to develop a comprehensive source of information on which public and private decisions relating to the management of water resources may be based;
(B) provide for a better understanding of hydrologic extremes (including floods and droughts) through the conduct of intensive data collection activities during and following hydrologic extremes;
(C) establish a base network that provides resources that are necessary for--
(i) the monitoring of long-term changes in streamflow; and
(ii) the conduct of assessments to determine the extent to which each long-term change monitored under clause (i) is related to global climate change;
(D) integrate the national streamflow information program with data collection activities of Federal agencies and appropriate State water resource agencies (including the National Integrated Drought Information System)--

(i) to enhance the comprehensive understanding of water availability;
(ii) to improve flood-hazard assessments;
(iii) to identify any data gap with respect to water resources;
(iv) to improve hydrologic forecasting; and

(E) incorporate principles of adaptive management in the conduct of periodic reviews of information collected under the national streamflow information program to assess whether the objectives of the national streamflow information program are being adequately addressed.

(3) Improved methodologies.-- The Secretary shall--

(A) improve methodologies relating to the analysis and delivery of data; and

(B) investigate, develop, and implement new methodologies and technologies to estimate or measure streamflow in a more cost-efficient manner.

(4) Network enhancement.--

(A) In general.-- Not later than 10 years after the date of enactment of this Act, in accordance with subparagraph (B), the Secretary shall--

(i) increase the number of streamgages funded by the national streamflow information program to a quantity of not less than 4,700 sites; and

(ii) ensure all streamgages are flood-hardened and equipped with water-quality sensors and modernized telemetry.

(B) Requirements of sites.-- Each site described in subparagraph (A) shall conform with the National Streamflow Information Program plan as reviewed by the National Research Council.

(5) Federal share.-- The Federal share of the national streamgaging network established pursuant to this subsection shall be 100 percent of the cost of carrying out the national streamgaging network.

(6) Authorization of appropriations.--

(A) In general.-- Except as provided in subparagraph (B), there are authorized to be appropriated such sums as are necessary to operate the national streamflow information program for the period of fiscal years 2009 through 2023, to remain available until expended.

(B) Network enhancement funding.-- There is authorized to be appropriated to carry out the network enhancements described in paragraph (4) $10,000,000 for each of fiscal years 2009 through 2019, to remain available until expended.

(b) National Groundwater Resources Monitoring.—

(1) In general.-- The Secretary shall develop a systematic groundwater monitoring program for each major aquifer system located in the United States.

(2) Program elements.-- In developing the monitoring program described in paragraph (1), the Secretary shall--

(A) establish appropriate criteria for monitoring wells to ensure the acquisition of long-term, high-quality data sets, including, to the maximum extent possible, the inclusion of real-time instrumentation and reporting;

(B) in coordination with the Advisory Committee and State and local water resource agencies--

(i) assess the current scope of groundwater monitoring based on the access availability and capability of each monitoring well in existence as of the date of enactment of this Act; and

(ii) develop and carry out a monitoring plan that maximizes coverage for each major aquifer system that is located in the United States; and

(C) prior to initiating any specific monitoring activities within a State after the date of enactment of this Act, consult and coordinate with the applicable State water resource agency with jurisdiction over the aquifer that is the subject of the monitoring activities, and comply with all applicable laws (including regulations) of the State.

(3) Program objectives.-- In carrying out the monitoring program described in paragraph (1), the Secretary shall--

(A) provide data that is necessary for the improvement of understanding with respect to surface water and groundwater interactions;

(B) by expanding the network of monitoring wells to reach each climate division, support the groundwater climate response network to improve the understanding of the effects of global climate change on groundwater recharge and availability; and

(C) support the objectives of the assessment program.

(4) Improved methodologies.--The Secretary shall--

(A) improve methodologies relating to the analysis and delivery of data; and

(B) investigate, develop, and implement new methodologies and technologies to estimate or measure groundwater recharge, discharge, and storage in a more cost-efficient manner.

(5) Federal share.-- The Federal share of the monitoring program described in paragraph (1) may be 100 percent of the cost of carrying out the monitoring program.

(6) Priority.-- In selecting monitoring activities consistent with the monitoring program described in paragraph (1), the Secretary shall give priority to those activities for which a State or local governmental entity agrees to provide for a substantial share of the cost of establishing or operating a monitoring well or other measuring device to carry out a monitoring activity.

(7) Authorization of appropriations.-- There are authorized to be appropriated such sums as are necessary to carry out this subsection for the period of fiscal years 2009 through 2023, to remain available until expended.

(c) Brackish Groundwater Assessment.--

(1) Study.-- The Secretary, in consultation with State and local water resource agencies, shall conduct a study of available data and other relevant information--

(A) to identify significant brackish groundwater resources located in the United States; and

(B) to consolidate any available data relating to each groundwater resource identified under subparagraph (A).

(2) Report.-- Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that includes--

(A) a description of each--

(i) significant brackish aquifer that is located in the United States (including 1 or more maps of each significant brackish aquifer that is located in the United States);

(ii) data gap that is required to be addressed to fully characterize each brackish aquifer described in clause (i); and

(iii) current use of brackish groundwater that is supplied by each brackish aquifer described in clause (i); and

(B) a summary of the information available as of the date of enactment of this Act with respect to each brackish aquifer described in subparagraph (A)(i) (including the known level of total dissolved solids in each brackish aquifer).

(3) Authorization of appropriations.-- There is authorized to be appropriated to carry out this subsection $3,000,000 for the period of fiscal years 2009 through 2011, to remain available until expended.

(d) Improved Water Estimation, Measurement, and Monitoring Technologies.--

(1) Authority of secretary.-- The Secretary may provide grants on a nonreimbursable basis to appropriate entities with expertise in water resource data acquisition and reporting, including Federal agencies, the Water Resources Research Institutes and other academic institutions, and private entities, to--

(A) investigate, develop, and implement new methodologies and technologies to estimate or measure water resources data in a cost-efficient manner; and

(B) improve methodologies relating to the analysis and delivery of data.

(2) Priority.-- In providing grants to appropriate entities under paragraph (1), the Secretary shall give priority to appropriate entities that propose the development of new methods and technologies for--

(A) predicting and measuring streamflows;

(B) estimating changes in the storage of groundwater;

(C) improving data standards and methods of analysis (including the validation of data entered into geographic information system databases);

(D) measuring precipitation and potential evapotranspiration; and

(E) water withdrawals, return flows, and consumptive use.

(3) Partnerships.-- In recognition of the value of collaboration to foster innovation and enhance research and development efforts, the Secretary shall encourage partnerships, including public-private partnerships, between and among Federal agencies, academic institutions, and private entities to promote the objectives described in paragraph (1).

(4) Authorization of appropriations.-- There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2009 through 2019.

**Sec. 9508. [National Water Availability and Use Assessment Program.]**

(a) Establishment.-- The Secretary, in coordination with the Advisory Committee and State and local water resource agencies, shall establish a national assessment program to be known as the “national water availability and use assessment program"--

(1) to provide a more accurate assessment of the status of the water resources of the United States;

(2) to assist in the determination of the quantity of water that is available for beneficial uses;

(3) to assist in the determination of the quality of the water resources of the United States;

(4) to identify long-term trends in water availability;

(5) to use each long-term trend described in paragraph (4) to provide a more accurate assessment of the change in the availability of water in the United States; and

(6) to develop the basis for an improved ability to forecast the availability of water for future economic, energy production, and environmental uses.

(b) Program Elements.--

(1) Water use.--In carrying out the assessment program, the Secretary shall conduct any appropriate activity to carry out an ongoing assessment of water use in hydrologic accounting units and major aquifer systems located in the United States, including--

(A) the maintenance of a comprehensive national water use inventory to enhance the level of understanding with respect to the effects of spatial and temporal patterns of water use on the availability and sustainable use of water resources;

(B) the incorporation of water use science principles, with an emphasis on applied research and statistical estimation techniques in the assessment of water use;

(C) the integration of any dataset maintained by any other Federal or State agency into the dataset maintained by the Secretary; and

(D) a focus on the scientific integration of any data relating to water use, water flow, or water quality to generate relevant information relating to the impact of human activity on water and ecological resources.

(2) Water availability.--In carrying out the assessment program, the Secretary shall conduct an ongoing assessment of water availability by—

(A) developing and evaluating nationally consistent indicators that reflect each status and trend relating to the availability of water resources in the United States, including--

(i) surface water indicators, such as streamflow and surface water storage measures (including lakes, reservoirs, perennial snowfields, and glaciers);

(ii) groundwater indicators, including groundwater level measurements and changes in groundwater levels due to--

(I) natural recharge;

(II) withdrawals;

(III) saltwater intrusion;

(IV) mine dewatering;

(V) land drainage;

(VI) artificial recharge; and

(VII) other relevant factors, as determined by the Secretary; and

(iii) impaired surface water and groundwater supplies that are known, accessible, and used to meet ongoing water demands;

(B) maintaining a national database of water availability data that--

(i) is comprised of maps, reports, and other forms of interpreted data;

(ii) provides electronic access to the archived data of the national database; and

(iii) provides for real-time data collection; and

(C) developing and applying predictive modeling tools that integrate groundwater, surface water, and ecological systems.

(c) Grant Program.--

(1) Authority of secretary.-- The Secretary may provide grants to State water resource agencies to assist State water resource agencies in--

(A) developing water use and availability datasets that are integrated with each appropriate dataset developed or maintained by the Secretary; or

(B) integrating any water use or water availability dataset of the State water resource agency into each appropriate dataset developed or maintained by the Secretary.

(2) Criteria.-- To be eligible to receive a grant under paragraph (1), a State water resource agency shall demonstrate to the Secretary that the water use and availability dataset proposed to be established or integrated by the State water resource agency--

(A) is in compliance with each quality and conformity standard established by the Secretary to ensure that the data will be capable of integration with any national dataset; and

(B) will enhance the ability of the officials of the State or the State water resource agency to carry out each water management and regulatory responsibility of the officials of the State in accordance with each applicable law of the State.

(3) Maximum amount.-- The amount of a grant provided to a State water resource agency under paragraph (1) shall be an amount not more than $250,000.

(d) Report.--Not later than December 31, 2012, and every 5 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report that provides a detailed assessment of-

(1) the current availability of water resources in the United States, including--

(A) historic trends and annual updates of river basin inflows and outflows;

(B) surface water storage;

(C) groundwater reserves; and

(D) estimates of undeveloped potential resources (including saline and brackish water and wastewater);

(2) significant trends affecting water availability, including each documented or projected impact to the availability of water as a result of global climate change;

(3) the withdrawal and use of surface water and groundwater by various sectors, including-

(A) the agricultural sector;

(B) municipalities;

(C) the industrial sector;

(D) thermoelectric power generators; and

(E) hydroelectric power generators;

(4) significant trends relating to each water use sector, including significant changes in water use due to the development of new energy supplies;

(5) significant water use conflicts or shortages that have occurred or are occurring; and

(6) each factor that has caused, or is causing, a conflict or shortage described in paragraph (5).

(e) Authorization of Appropriations.--

(1) In general.--There is authorized to be appropriated to carry out subsections (a), (b), and (d) $20,000,000 for each of fiscal years 2009 through 2023, to remain available until expended.

(2) Grant program.--There is authorized to be appropriated to carry out subsection (c) $12,500,000 for the period of fiscal years 2009 through 2013, to remain available until expended.

**Sec. 9509. [Research Agreement Authority.]--** The Secretary may enter into contracts, grants, or cooperative agreements, for periods not to exceed 5 years, to carry out research within the Bureau of Reclamation.

**Sec. 9510. [Effect.]**
(a) In General.-- Nothing in this subtitle supersedes or limits any existing authority provided, or responsibility conferred, by any provision of law.
(b) Effect on State Water Law.--
(1) In general.-- Nothing in this subtitle preempts or affects any--
(A) State water law; or
(B) interstate compact governing water.
(2) Compliance required.-- The Secretary shall comply with applicable State water laws in carrying out this subtitle.

**Subtitle G--Aging Infrastructure**

**Sec. 9601 [Definitions.]** In this subtitle:
(1) Inspection.-- The term “inspection" means an inspection of a project facility carried out by the Secretary--
(A) to assess and determine the general condition of the project facility; and
(B) to estimate the value of property, and the size of the population, that would be at risk if the project facility fails, is breached, or otherwise allows flooding to occur.
(2) Project facility.--The term “project facility" means any part or incidental feature of a project, excluding high- and significant-hazard dams, constructed under the Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).
(3) Reserved works.-- The term “reserved works" mean any project facility at which the Secretary carries out the operation and maintenance of the project facility.
(4) Secretary.-- The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.
(5) Transferred works.-- The term “transferred works" means a project facility, the operation and maintenance of which is carried out by a non-Federal entity, under the provisions of a formal operation and maintenance transfer contract.
(6) Transferred works operating entity.-- The term “transferred works operating entity" means the organization which is contractually responsible for operation and maintenance of transferred works.
(7) Extraordinary operation and maintenance work.-- The term “extraordinary operation and maintenance work" means major, nonrecurring maintenance to Reclamation-owned or operated facilities, or facility components, that is--
(A) intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits; and
(B) greater than 10 percent of the contractor's or the transferred works operating entity's annual operation and maintenance budget for the facility, or greater than $100,000.

**Sec. 9602. [Guidelines and Inspection of Project Facilities and Technical Assistance to Transferred Works Operating Entities.]**
(a) Guidelines and Inspections.--
(1) Development of guidelines.-- Not later than 1 year after the date of enactment of this Act, the Secretary in consultation with transferred works operating entities shall develop, consistent with existing transfer contracts, specific inspection guidelines for project facilities which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such project facilities were to fail.

(2) Conduct of inspections.-- Not later than 3 years after the date of enactment of this Act, the Secretary shall conduct inspections of those project facilities, which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such facilities were to fail, using such specific inspection guidelines and criteria developed pursuant to paragraph (1). In selecting project facilities to inspect, the Secretary shall take into account the potential magnitude of public safety and economic damage posed by each project facility.

(3) Treatment of costs.-- The costs incurred by the Secretary in conducting these inspections shall be nonreimbursable.

(b) Use of Inspection Data.-- The Secretary shall use the data collected through the conduct of the inspections under subsection (a)(2) to--

(1) provide recommendations to the transferred works operating entities for improvement of operation and maintenance processes, operating procedures including operation guidelines consistent with existing transfer contracts, and structural modifications to those transferred works;

(2) determine an appropriate inspection frequency for such nondam project facilities which shall not exceed 6 years; and

(3) provide, upon request of transferred work operating entities, local governments, or State agencies, information regarding potential hazards posed by existing or proposed residential, commercial, industrial or public-use development adjacent to project facilities.

(c) Technical Assistance to Transferred Works Operating Entities.--

(1) Authority of secretary to provide technical assistance.-- The Secretary is authorized, at the request of a transferred works operating entity in proximity to an urbanized area, to provide technical assistance to accomplish the following, if consistent with existing transfer contracts:

(A) Development of documented operating procedures for a project facility.

(B) Development of documented emergency notification and response procedures for a project facility.

(C) Development of facility inspection criteria for a project facility.

(D) Development of a training program on operation and maintenance requirements and practices for a project facility for a transferred works operating entity's workforce.

(E) Development of a public outreach plan on the operation and risks associated with a project facility.

(F) Development of any other plans or documentation which, in the judgment of the Secretary, will contribute to public safety and the sage operation of a project facility.

(2) Costs.-- The Secretary is authorized to provide, on a non-reimbursable basis, up to 50 percent of the cost of such technical assistance, with the balance of such costs being advanced by the transferred works operating entity or other non-Federal source. The non-Federal 50 percent minimum cost share for such technical assistance may be in the form of in-lieu contributions of resources by the transferred works operating entity or other non-Federal source.

**Sec. 9603. [Extraordinary Operation and Maintenance Work Performed by the Secretary.]**

(a) In General.--The Secretary or the transferred works operating entity may carry out, in accordance with subsection (b) and consistent with existing transfer contracts, any

extraordinary operation and maintenance work on a project facility that the Secretary determines to be reasonably required to preserve the structural safety of the project facility.

(b) Reimbursement of Costs Arising from Extraordinary Operation and Maintenance Work.--

(1) Treatment of costs.--For reserved works, costs incurred by the Secretary in conducting extraordinary operation and maintenance work will be allocated to the authorized reimbursable purposes of the project and shall be repaid within 50 years, with interest, from the year in which work undertaken pursuant to this subtitle is substantially complete.

(2) Authority of secretary.--For transferred works, the Secretary is authorized to advance the costs incurred by the transferred works operating entity in conducting extraordinary operation and maintenance work and negotiate appropriate 50-year repayment contracts with project beneficiaries providing for the return of reimbursable costs, with interest, under this subsection: Provided, however, That no contract entered into pursuant to this subtitle shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (43 U.S.C. 390cc(a)).

(3) Determination of interest rate.--The interest rate used for computing interest on work in progress and interest on the unpaid balance of the reimbursable costs of extraordinary operation and maintenance work authorized by this subtitle shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which extraordinary operation and maintenance work is commenced, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest \1/8\ of 1 percent on the unamortized balance of any portion of the loan.

(c) Emergency Extraordinary Operation and Maintenance Work.--

(1) In general.--The Secretary or the transferred works operating entity shall carry out any emergency extraordinary operation and maintenance work on a project facility that the Secretary determines to be necessary to minimize the risk of imminent harm to public health or safety, or property.

(2) Reimbursement.--The Secretary may advance funds for emergency extraordinary operation and maintenance work and shall seek reimbursement from the transferred works operating entity or benefitting entity upon receiving a written assurance from the governing body of such entity that it will negotiate a contract pursuant to section 9603 for repayment of costs incurred by the Secretary in undertaking such work.

(3) Funding.--If the Secretary determines that a project facility inspected and maintained pursuant to the guidelines and criteria set forth in section 9602(a) requires extraordinary operation and maintenance pursuant to paragraph (1), the Secretary may provide Federal funds on a nonreimbursable basis sufficient to cover 35 percent of the cost of the extraordinary operation and maintenance allocable to the transferred works operating entity, which is needed to minimize the risk of imminent harm. The remaining share of the Federal funds advanced by the Secretary for such work shall be repaid under subsection (b).

**Sec. 9604. [Relationship to Twenty-First Century Water Works Act.]--** Nothing in this subtitle shall preclude a transferred works operating entity from applying and receiving a loan-guarantee pursuant to the Twenty-First Century Water Works Act (43 U.S.C. 2401 et seq.).

**Sec. 9605. [Authorization of Appropriations.]--** There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

**TITLE X--WATER SETTLEMENTS**
**Subtitle A--San Joaquin River Restoration Settlement**
**PART I--SAN JOAQUIN RIVER RESTORATION SETTLEMENT ACT**
**Sec. 10001. [Short Title.]--** This part may be cited as the “San Joaquin River Restoration Settlement Act".
**Sec. 10002. [Purpose.]--** The purpose of this part is to authorize implementation of the Settlement.
**Sec. 10003. [Definitions.]--** In this part:

(1) The terms “Friant Division long-term contractors", “Interim Flows", “Restoration Flows", “Recovered Water Account", “Restoration Goal", and “Water Management Goal" have the meanings given the terms in the Settlement.
(2) The term “Secretary" means the Secretary of the Interior.
(3) The term “Settlement" means the Stipulation of Settlement dated September 13, 2006, in the litigation entitled Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., United States District Court, Eastern District of California, No. CIV. S-88-1658-LKK/GGH.

**Sec. 10004. [Implementation of Settlement.]**
(a) In General.--The Secretary of the Interior is hereby authorized and directed to implement the terms and conditions of the Settlement in cooperation with the State of California, including the following measures as these measures are prescribed in the Settlement:

(1) Design and construct channel and structural improvements as described in paragraph 11 of the Settlement, provided, however, that the Secretary shall not make or fund any such improvements to facilities or property of the State of California without the approval of the State of California and the State's agreement in 1 or more memoranda of understanding to participate where appropriate.
(2) Modify Friant Dam operations so as to provide Restoration Flows and Interim Flows.
(3) Acquire water, water rights, or options to acquire water as described in paragraph 13 of the Settlement, provided, however, such acquisitions shall only be made from willing sellers and not through eminent domain.
(4) Implement the terms and conditions of paragraph 16 of the Settlement related to recirculation, recapture, reuse, exchange, or transfer of water released for Restoration Flows or Interim Flows, for the purpose of accomplishing the Water Management Goal of the Settlement, subject to--

(A) applicable provisions of California water law;
(B) the Secretary's use of Central Valley Project facilities to make Project water (other than water released from Friant Dam pursuant to the Settlement) and water acquired through transfers available to existing south-of-Delta Central Valley Project contractors; and
(C) the Secretary's performance of the Agreement of November 24, 1986, between the United States of America and the Department of Water Resources of the State of California for the coordinated operation of the Central Valley Project and the State Water Project as authorized by Congress in section 2(d) of the Act of August 26, 1937 (50 Stat. 850, 100 Stat. 3051), including any agreement to resolve conflicts arising from said Agreement.

(5) Develop and implement the Recovered Water Account as specified in paragraph 16(b) of the Settlement, including the pricing and payment crediting provisions described in

paragraph 16(b)(3) of the Settlement, provided that all other provisions of Federal reclamation law shall remain applicable.

(b) Agreements.--

(1) Agreements with the state.-- In order to facilitate or expedite implementation of the Settlement, the Secretary is authorized and directed to enter into appropriate agreements, including cost-sharing agreements, with the State of California.

(2) Other agreements.-- The Secretary is authorized to enter into contracts, memoranda of understanding, financial assistance agreements, cost sharing agreements, and other appropriate agreements with State, tribal, and local governmental agencies, and with private parties, including agreements related to construction, improvement, and operation and maintenance of facilities, subject to any terms and conditions that the Secretary deems necessary to achieve the purposes of the Settlement.

(c) Acceptance and Expenditure of Non-Federal Funds.-- The Secretary is authorized to accept and expend non-Federal funds in order to facilitate implementation of the Settlement.

(d) Mitigation of Impacts.-- Prior to the implementation of decisions or agreements to construct, improve, operate, or maintain facilities that the Secretary determines are needed to implement the Settlement, the Secretary shall identify--

(1) the impacts associated with such actions; and

(2) the measures which shall be implemented to mitigate impacts on adjacent and downstream water users and landowners.

(e) Design and Engineering Studies.-- The Secretary is authorized to conduct any design or engineering studies that are necessary to implement the Settlement.

(f) Effect on Contract Water Allocations.-- Except as otherwise provided in this section, the implementation of the Settlement and the reintroduction of California Central Valley Spring Run Chinook salmon pursuant to the Settlement and section 10011, shall not result in the involuntary reduction in contract water allocations to Central Valley Project long-term contractors, other than Friant Division long-term contractors.

(g) Effect on Existing Water Contracts.-- Except as provided in the Settlement and this part, nothing in this part shall modify or amend the rights and obligations of the parties to any existing water service, repayment, purchase, or exchange contract.

(h) Interim Flows.--

(1) Study required.-- Prior to releasing any Interim Flows under the Settlement, the Secretary shall prepare an analysis in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including at a minimum--

(A) an analysis of channel conveyance capacities and potential for levee or groundwater seepage;

(B) a description of the associated seepage monitoring program;

(C) an evaluation of--

(i) possible impacts associated with the release of Interim Flows; and

(ii) mitigation measures for those impacts that are determined to be significant;

(D) a description of the associated flow monitoring program; and

(E) an analysis of the likely Federal costs, if any, of any fish screens, fish bypass facilities, fish salvage facilities, and related operations on the San Joaquin River south of the confluence with the Merced River required under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as a result of the Interim Flows.

(2) Conditions for release.--The Secretary is authorized to release Interim Flows to the extent that such flows would not--

(A) impede or delay completion of the measures specified in Paragraph 11(a) of the Settlement; or

(B) exceed existing downstream channel capacities.

(3) Seepage impacts.-- The Secretary shall reduce Interim Flows to the extent necessary to address any material adverse impacts to third parties from groundwater seepage caused by such flows that the Secretary identifies based on the monitoring program of the Secretary.

(4) Temporary fish barrier program.-- The Secretary, in consultation with the California Department of Fish and Game, shall evaluate the effectiveness of the Hills Ferry barrier in preventing the unintended upstream migration of anadromous fish in the San Joaquin River and any false migratory pathways. If that evaluation determines that any such migration past the barrier is caused by the introduction of the Interim Flows and that the presence of such fish will result in the imposition of additional regulatory actions against third parties, the Secretary is authorized to assist the Department of Fish and Game in making improvements to the barrier. From funding made available in accordance with section 10009, if third parties along the San Joaquin River south of its confluence with the Merced River are required to install fish screens or fish bypass facilities due to the release of Interim Flows in order to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary shall bear the costs of the installation of such screens or facilities if such costs would be borne by the Federal Government under section 10009(a)(3),

except to the extent that such costs are already or are further willingly borne by the State of California or by the third parties.

(i) Funding Availability.--

(1) In general.-- Funds shall be collected in the San Joaquin River Restoration Fund through October 1, 2019, and thereafter, with substantial amounts available through October 1, 2019, pursuant to section 10009 for implementation of the Settlement and parts I and III, including--

(A) $88,000,000, to be available without further appropriation pursuant to section 10009(c)(2);

(B) additional amounts authorized to be appropriated, including the charges required under section 10007 and an estimated $20,000,000 from the CVP Restoration Fund pursuant to section 10009(b)(2); and

(C) an aggregate commitment of at least $200,000,000 by the State of California.

(2) Additional amounts.-- Substantial additional amounts from the San Joaquin River Restoration Fund shall become available without further appropriation after October 1, 2019, pursuant to section 10009(c)(2).

(3) Effect of subsection.-- Nothing in this subsection limits the availability of funds authorized for appropriation pursuant to section 10009(b) or 10203(c).

(j) San Joaquin River Exchange Contract.--Subject to section 10006(b), nothing in this part shall modify or amend the rights and obligations under the Purchase Contract between Miller and Lux and the United States and the Second Amended Exchange Contract between the United States, Department of the Interior, Bureau of Reclamation and Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District and Columbia Canal Company.

**Sec. 10005. [Acquisition and Disposal of Property; Title to Facilities.]**

(a) Title to Facilities.-- Unless acquired pursuant to subsection (b), title to any facility or facilities, stream channel, levees, or other real property modified or improved in the course of implementing the Settlement authorized by this part, and title to any modifications or improvements of such facility or facilities, stream channel, levees, or other real property--

(1) shall remain in the owner of the property; and

(2) shall not be transferred to the United States on account of such modifications or improvements.

(b) Acquisition of Property.--

(1) In general.-- The Secretary is authorized to acquire through purchase from willing sellers any property, interests in property, or options to acquire real property needed to implement the Settlement authorized by this part.

(2) Applicable law.-- The Secretary is authorized, but not required, to exercise all of the authorities provided in section 2 of the Act of August 26, 1937 (50 Stat. 844, chapter 832), to carry out the measures authorized in this section and section 10004.

(c) Disposal of Property.--

(1) In general.-- Upon the Secretary's determination that retention of title to property or interests in property acquired pursuant to this part is no longer needed to be held by the United States for the furtherance of the Settlement, the Secretary is authorized to dispose of such property or interest in property on such terms and conditions as the Secretary deems appropriate and in the best interest of the United States, including possible transfer of such property to the State of California.

(2) Right of first refusal.--In the event the Secretary determines that property acquired pursuant to this part through the exercise of its eminent domain authority is no longer necessary for implementation of the Settlement, the Secretary shall provide a right of first refusal to the property owner from whom the property was initially acquired, or his or her successor in interest, on the same terms and conditions as the property is being offered to other parties.

(3) Disposition of proceeds.--Proceeds from the disposal by sale or transfer of any such property or interests in such property shall be deposited in the fund established by section 10009(c).

(d) Groundwater Bank.--Nothing in this part authorizes the Secretary to operate a groundwater bank along or adjacent to the San Joaquin River upstream of the confluence with the Merced River, and any such groundwater bank shall be operated by a non-Federal entity.

**Sec. 10006. [Compliance with Applicable Law.]**

(a) Applicable Law.--

(1) In general.-- In undertaking the measures authorized by this part, the Secretary and the Secretary of Commerce shall comply with all applicable Federal and State laws, rules, and regulations, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as necessary.

(2) Environmental reviews.-- The Secretary and the Secretary of Commerce are authorized and directed to initiate and expeditiously complete applicable environmental reviews and consultations as may be necessary to effectuate the purposes of the Settlement.

(b) Effect on State Law.-- Nothing in this part shall preempt State law or modify any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law.

(c) Use of Funds for Environmental Reviews.--

(1) Definition of environmental review.-- For purposes of this subsection, the term "environmental review" includes any consultation and planning necessary to comply with subsection (a).

(2) Participation in environmental review process.-- In undertaking the measures authorized by section 10004, and for which environmental review is required, the Secretary may provide funds made available under this part to affected Federal agencies, State agencies, local agencies, and Indian tribes if the Secretary determines that such funds are necessary to allow the Federal agencies, State agencies, local agencies, or Indian tribes to effectively participate in the environmental review process.

(3) Limitation.-- Funds may be provided under paragraph (2) only to support activities that directly contribute to the implementation of the terms and conditions of the Settlement.

(d) Nonreimbursable Funds.-- The United States' share of the costs of implementing this part shall be nonreimbursable under Federal reclamation law, provided that nothing in this subsection shall limit or be construed to limit the use of the funds assessed and collected pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4721, 4727), for implementation of the Settlement, nor shall it be construed to limit or modify existing or future Central Valley Project rate-setting policies.

**Sec. 10007. [Compliance with Central Valley Project Improvement Act.]--** Congress hereby finds and declares that the Settlement satisfies and discharges all of the obligations of the Secretary contained in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4721), provided, however, that--

(1) the Secretary shall continue to assess and collect the charges provided in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4721), as provided in the Settlement; and

(2) those assessments and collections shall continue to be counted toward the requirements of the Secretary contained in section 3407(c)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4726).

**Sec. 10008. [No Private Right of Action.]**

(a) In General.--Nothing in this part confers upon any person or entity not a party to the Settlement a private right of action or claim for relief to interpret or enforce the provisions of this part or the Settlement.

(b) Applicable Law.--This section shall not alter or curtail any right of action or claim for relief under any other applicable law.

**Sec. 10009. [Appropriations; Settlement Fund.]**

(a) Implementation Costs.--

(1) In general.--The costs of implementing the Settlement shall be covered by payments or in-kind contributions made by Friant Division contractors and other non-Federal parties, including the funds provided in subparagraphs (A) through (D) of subsection

(c)(1), estimated to total $440,000,000, of which the non-Federal payments are estimated to total $200,000,000 (at October 2006 price levels) and the amount from repaid Central Valley Project capital obligations is estimated to total $240,000,000, the additional Federal appropriation of $250,000,000 authorized pursuant to subsection (b)(1), and such additional funds authorized pursuant to subsection (b)(2); provided however, that the costs of implementing the provisions of section 10004(a)(1) shall be shared by the State of California pursuant to the terms of a memorandum of understanding executed by the State of California and the Parties to the Settlement on September 13, 2006, which includes at least $110,000,000 of State funds.

(2) Additional agreements.—

(A) In general.--The Secretary shall enter into 1 or more agreements to fund or implement improvements on a project-by-project basis with the State of California.

(B) Requirements.--Any agreements entered into under subparagraph (A) shall provide for recognition of either monetary or in-kind contributions toward the State of California's share of the cost of implementing the provisions of section 10004(a)(1).

(3) Limitation.--Except as provided in the Settlement, to the extent that costs incurred solely to implement this Settlement would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(b) Authorization of Appropriations.--

(1) In general.--In addition to the funding provided in subsection (c), there are also authorized to be appropriated not to exceed $250,000,000 (at October 2006 price levels) to implement this part and the Settlement, to be available until expended; provided however, that the Secretary is authorized to spend such additional appropriations only in amounts equal to the amount of funds deposited in the San Joaquin River Restoration Fund (not including payments under subsection (c)(1)(B) and proceeds under subsection (c)(1)(C)), the amount of in-kind contributions, and other non-Federal payments actually committed to the implementation of this part or the Settlement.

(2) Use of the central valley project restoration fund.--The Secretary is authorized to use monies from the Central Valley Project Restoration Fund created under section 3407 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4727) for purposes of this part in an amount not to exceed $2,000,000 (October 2006 price levels) in any fiscal year.

(c) Fund.--

(1) In general.--There is hereby established within the Treasury of the United States a fund, to be known as the San Joaquin River Restoration Fund, into which the following funds shall be deposited and used solely for the purpose of implementing the Settlement except as otherwise provided in subsections (a) and (b) of section 10203:

(A) All payments received pursuant to section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4721).

(B) The construction cost component (not otherwise needed to cover operation and maintenance costs) of payments made by Friant Division, Hidden Unit, and Buchanan Unit long-term contractors pursuant to long-term water service contracts or pursuant to repayment contracts, including repayment contracts executed pursuant to section 10010. The construction cost repayment obligation assigned such contractors under such contracts shall be reduced by the amount paid pursuant to this paragraph and the appropriate share of the existing Federal investment in the Central Valley Project to be recovered by the Secretary pursuant to Public Law 99-546 (100 Stat. 3050) shall be reduced by an equivalent sum.

(C) Proceeds from the sale of water pursuant to the Settlement, or from the sale of property or interests in property as provided in section 10005.

(D) Any Non-Federal funds, including State cost-sharing funds, contributed to the United States for implementation of the Settlement, which the Secretary may expend without further appropriation for the purposes for which contributed.

(2) Availability.--All funds deposited into the Fund pursuant to subparagraphs (A), (B), and (C) of paragraph (1) are authorized for appropriation to implement the Settlement and this part, in addition to the authorization provided in subsections (a) and (b) of section 10203, except that $88,000,000 of such funds are available for expenditure without further appropriation; provided that after October 1, 2019, all funds in the Fund shall be available for expenditure without further appropriation.

(d) Limitation on Contributions.--Payments made by long-term contractors who receive water from the Friant Division and Hidden and Buchanan Units of the Central Valley Project pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4721, 4727) and payments made pursuant to paragraph 16(b)(3) of the Settlement and subsection (c)(1)(B) shall be the limitation of such entities' direct financial contribution to the Settlement, subject to the terms and conditions of paragraph 21 of the Settlement.

(e) No Additional Expenditures Required.--Nothing in this part shall be construed to require a Federal official to expend Federal funds not appropriated by Congress, or to seek the appropriation of additional funds by Congress, for the implementation of the Settlement.

(f) Reach 4B.--

(1) Study.--

(A) In general.--In accordance with the Settlement and the memorandum of understanding executed pursuant to paragraph 6 of the Settlement, the Secretary shall conduct a study that specifies--

(i) the costs of undertaking any work required under paragraph 11(a)(3) of the Settlement to increase the capacity of reach 4B prior to reinitiation of Restoration Flows;

(ii) the impacts associated with reinitiation of such flows; and

(iii) measures that shall be implemented to mitigate impacts.

(B) Deadline.--The study under subparagraph (A) shall be completed prior to restoration of any flows other than Interim Flows.

(2) Report.--

(A) In general.--The Secretary shall file a report with Congress not later than 90 days after issuing a determination, as required by the Settlement, on whether to

expand channel conveyance capacity to 4500 cubic feet per second in reach 4B of the San Joaquin River, or use an alternative route for pulse flows, that--

(i) explains whether the Secretary has decided to expand Reach 4B capacity to 4500 cubic feet per second; and

(ii) addresses the following matters:

(I) The basis for the Secretary's determination, whether set out in environmental review documents or otherwise, as to whether the expansion of Reach 4B would be the preferable means to achieve the Restoration Goal as provided in the Settlement, including how different factors were assessed such as comparative biological and habitat benefits, comparative costs, relative availability of State cost-sharing funds, and the comparative benefits and impacts on water temperature, water supply, private property, and local and downstream flood control.

(II) The Secretary's final cost estimate for expanding Reach 4B capacity to 4500 cubic feet per second, or any alternative route selected, as well as the alternative cost estimates provided by the State, by the Restoration Administrator, and by the other parties to the Settlement.

(III) The Secretary's plan for funding the costs of expanding Reach 4B or any alternative route selected, whether by existing Federal funds provided under this subtitle, by non-Federal funds, by future Federal appropriations, or some combination of such sources.

(B) Determination required.--The Secretary shall, to the extent feasible, make the determination in subparagraph (A) prior to undertaking any substantial construction work to increase capacity in reach 4B.

(3) Costs.--If the Secretary's estimated Federal cost for expanding reach 4B in paragraph (2), in light of the Secretary's funding plan set out in that paragraph, would exceed the remaining Federal funding authorized by this part (including all funds reallocated, all funds dedicated, and all new funds authorized by this part and separate from all commitments of State and other non-Federal funds and in-kind commitments), then before the Secretary commences actual construction work in reach 4B (other than planning, design, feasibility, or other preliminary measures) to expand capacity to 4500 cubic feet per second to implement this Settlement, Congress must have increased the increased the applicable authorization ceiling provided by this part in an amount at least sufficient to cover the higher estimated Federal costs.

**Sec. 10010. [Replayment Contracts and Acceleration of Repayment of Construction Costs.]**

(a) Conversion of Contracts.--

(1) The Secretary is authorized and directed to convert, prior to December 31, 2010, all existing long-term contracts with the following Friant Division, Hidden Unit, and Buchanan Unit contractors, entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to contracts under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions: Arvin-Edison Water Storage District; Delano-Earlimart Irrigation District; Exeter Irrigation District; Fresno Irrigation District; Ivanhoe Irrigation District; Lindmore Irrigation District; Lindsay-Strathmore

Irrigation District; Lower Tule River Irrigation District; Orange Cove Irrigation District; Porterville Irrigation District; Saucelito Irrigation District; Shafter-Wasco Irrigation District; Southern San Joaquin Municipal Utility District; Stone Corral Irrigation District; Tea Pot Dome Water District; Terra Bella Irrigation District; Tulare Irrigation District; Madera Irrigation District; and Chowchilla Water District. Upon request of the contractor, the Secretary is authorized to convert, prior to December 31, 2010, other existing long-term contracts with Friant Division contractors entered under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1196), to contracts under subsection (d) of section 9 of said Act (53 Stat. 1195), under mutually agreeable terms and conditions.

(2) Upon request of the contractor, the Secretary is further authorized to convert, prior to December 31, 2010, any existing Friant Division long-term contract entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to a contract under subsection (c)(1) of section 9 of said Act, under mutually agreeable terms and conditions.

(3) All such contracts entered into pursuant to paragraph (1) shall--

(A) require the repayment, either in lump sum or by accelerated prepayment, of the remaining amount of construction costs identified in the Central Valley Project Schedule of Irrigation Capital Rates by Contractor 2007 Irrigation Water Rates, dated January 25, 2007, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2011, or if made in approximately equal annual installments, no later than January 31, 2014; such amount to be discounted by \1/2\ the Treasury Rate. An estimate of the remaining amount of construction costs as of January 31, 2011, as adjusted, shall be provided by the Secretary to each contractor no later than June 30, 2010;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be
repaid as provided by applicable Reclamation law, provided that the reference to the amount of $5,000,000 shall not be a precedent in any other context;

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

(D) conform to the Settlement and this part and shall continue so long as the contractor pays applicable charges, consistent with subsection (c)(2) and applicable law.

(4) All such contracts entered into pursuant to paragraph (2) shall--

(A) require the repayment in lump sum of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Municipal and Industrial Water Rates, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2014. An estimate of the remaining amount of construction costs as of January 31, 2014, as adjusted, shall be provided by the Secretary to each contractor no later than June 30, 2013;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable Reclamation law, provided that the reference to the amount of $5,000,000 shall not be a precedent in any other context; and

(C) conform to the Settlement and this part and shall continue so long as the contractor pays applicable charges, consistent with subsection (c)(2) and applicable law.

(b) Final Adjustment.-- The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary upon completion of the construction of the Central Valley Project. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than 1 year and no more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary is authorized and directed to credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) Applicability of Certain Provisions.--

(1) Notwithstanding any repayment obligation under subsection (a)(3)(B) or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in subsection (a)(3)(A), the provisions of section 213(a) and (b) of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to lands in such district.

(2) Notwithstanding any repayment obligation under paragraph (3)(B) or (4)(B) of subsection (a), or subsection (b), upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs as provided in paragraphs (3)(A) and (4)(A) of subsection (a), the Secretary shall waive the pricing provisions of section 3405(d) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575) for such contractor, provided that such contractor shall continue to pay applicable operation and maintenance costs and other charges applicable to such repayment contracts pursuant to the then-current rate-setting policy and applicable law.

(3) Provisions of the Settlement applying to Friant Division, Hidden Unit, and Buchanan Unit long-term water service contracts shall also apply to contracts executed pursuant to this section.

(d) Reduction of Charge for Those Contracts Converted Pursuant to Subsection (a)(1).--

(1) At the time all payments by the contractor required by subsection (a)(3)(A) have been completed, the Secretary shall reduce the charge mandated in section 10007(1) of this part, from 2020 through 2039, to offset the financing costs as defined in section 10010(d)(3). The reduction shall be calculated at the time all payments by the contractor required by subsection (a)(3)(A) have been completed. The calculation shall remain fixed from 2020

through 2039 and shall be based upon anticipated average annual water deliveries, as mutually agreed upon by the Secretary and the contractor, for the period from 2020 through 2039, and the amounts of such reductions shall be discounted using the Treasury Rate; provided, that such charge shall not be reduced to less than $4.00 per acre foot of project water delivered; provided further, that such reduction shall be implemented annually unless the Secretary determines, based on the availability of other monies, that the charges mandated in section 10007(1) are otherwise needed to cover ongoing federal costs of the Settlement, including any federal operation and maintenance costs of facilities that the Secretary determines are needed to implement the Settlement. If the Secretary determines that such charges are necessary to cover such ongoing federal costs, the Secretary shall, instead of making the reduction in such charges, reduce the contractor's operation and maintenance obligation by an equivalent amount, and such amount shall not be recovered by the United States from any Central Valley Project contractor, provided nothing herein shall affect the obligation of the contractor to make payments pursuant to a transfer agreement with a non-federal operating entity.

(2) If the calculated reduction in paragraph (1), taking into consideration the minimum amount required, does not result in the contractor offsetting its financing costs, the Secretary is authorized and directed to reduce, after October 1, 2019, any outstanding or future obligations of the contractor to the Bureau of Reclamation,
other than the charge assessed and collected under section 3407(d) of Public law 102-575, by the amount of such deficiency, with such amount indexed to 2020 using the Treasury Rate and such amount shall not be recovered by the United States from any Central Valley Project contractor, provided nothing herein shall affect the obligation of the contractor to make payments pursuant to a transfer agreement with a non-Federal operating entity.

(3) Financing costs, for the purposes of this subsection, shall be computed as the difference of the net present value of the construction cost identified in subsection (a)(3)(A) using the full Treasury Rate as compared to using one half of the Treasury Rate and applying those rates against a calculated average annual capital repayment through 2030.

(4) Effective in 2040, the charge shall revert to the amount called for in section 10007(1) of this part.

(5) For purposes of this section, “Treasury Rate" shall be defined as the 20 year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury as of October 1, 2010.

(e) Satisfaction of Certain Provisions.--

(1) In general.-- Upon the first release of Interim Flows or Restoration Flows, pursuant to paragraphs 13 or 15 of the Settlement, any short- or long-term agreement, to which 1 or more long-term Friant Division, Hidden Unit, or Buchanan Unit contractor that converts its contract pursuant to subsection (a) is a party, providing for the transfer or exchange of water not released as Interim Flows or Restoration Flows shall be deemed to satisfy the provisions of subsection 3405(a)(1)(A) and (I) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575) without the further concurrence of the Secretary as to compliance with said subsections if the contractor provides, not later than 90 days before commencement of any such transfer or exchange for a period in excess of 1 year, and not later than 30 days before commencement of any proposed transfer or exchange with duration of less than 1 year, written notice to the Secretary stating how the proposed transfer or exchange is intended to reduce, avoid, or mitigate impacts to water

deliveries caused by the Interim Flows or Restoration Flows or is intended to otherwise facilitate the Water Management Goal, as described in the Settlement. The Secretary shall promptly make such notice publicly available.

(2) Determination of reductions to water deliveries.--Water transferred or exchanged under an agreement that meets the terms of this subsection shall not be counted as a replacement or an offset for purposes of determining reductions to water deliveries to any Friant Division long-term contractor except as provided in paragraph 16(b) of the Settlement. The Secretary shall, at least annually, make publicly available a compilation of the number of transfer or exchange agreements exercising the provisions of this subsection to reduce, avoid, or mitigate impacts to water deliveries caused by the Interim Flows or Restoration Flows or to facilitate the Water
Management Goal, as well as the volume of water transferred or exchanged under such agreements.

(3) State law.--Nothing in this subsection alters State law or permit conditions, including any applicable geographical restrictions on the place of use of water transferred or exchanged pursuant to this subsection.

(f) Certain Repayment Obligations Not Altered.--Implementation of the provisions of this section shall not alter the repayment obligation of any other long-term water service or repayment contractor receiving water from the Central Valley Project, or shift any costs that would otherwise have been properly assignable to the Friant contractors absent this section, including operations and maintenance costs, construction costs, or other capitalized costs incurred after the date of enactment of this Act, to other such contractors.

(g) Statutory Interpretation.--Nothing in this part shall be construed to affect the right of any Friant Division, Hidden Unit, or Buchanan Unit long-term contractor to use a particular type of financing to make the payments required in paragraph (3)(A) or (4)(A) of subsection (a).

**Sec. 10011. [California Central Valley Spring Run Chinook Salmon.]**

(a) Finding.--Congress finds that the implementation of the Settlement to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the California Central Valley Spring Run Chinook salmon is a unique and unprecedented circumstance that requires clear expressions of Congressional intent regarding how the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are utilized to achieve the goals of restoration of the San Joaquin River and the successful reintroduction of California Central Valley Spring Run Chinook salmon.

(b) Reintroduction in the San Joaquin River.--California Central V alley Spring Run Chinook salmon shall be reintroduced in the San Joaquin River below Friant Dam pursuant to section10(j) of the Endangered Species Act of 1973 (16 U.S.C. 1539(j) and the Settlement, provided that the Secretary of Commerce finds that a permit for the reintroduction of California Central Valley Spring Run Chinook salmon may be issued pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

(c) Final Rule.--

(1) Definition of third party.-- For the purpose of this subsection, the term ``third party'' means persons or entities diverting or receiving water pursuant to applicable State and Federal laws and shall include Central Valley Project contractors outside of the Friant Division of the Central Valley Project and the State Water Project.

(2) Issuance.-- The Secretary of Commerce shall issue a final rule pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) governing the incidental take

of reintroduced California Central Valley Spring Run Chinook salmon prior to the reintroduction.

(3) Required components.-- The rule issued under paragraph (2) shall provide that the reintroduction will not impose more than de minimus: water supply reductions, additional storage releases, or bypass flows on unwilling third parties due to such reintroduction.

(4) Applicable law.-- Nothing in this section--

(A) diminishes the statutory or regulatory protections provided in the Endangered Species Act of 1973 for any species listed pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) other than the reintroduced population of California Central Valley Spring Run Chinook salmon, including protections pursuant to existing biological opinions or new biological opinions issued by the Secretary or Secretary of Commerce; or

(B) precludes the Secretary or Secretary of Commerce from imposing protections under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for other species listed pursuant to section 4 of that Act (16 U.S.C. 1533) because those protections provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(d) Report.--

(1) In general.-- Not later than December 31, 2024, the Secretary of Commerce shall report to Congress on the progress made on the reintroduction set forth in this section and the Secretary's plans for future implementation of this section.

(2) Inclusions.-- The report under paragraph (1) shall include--

(A) an assessment of the major challenges, if any, to successful reintroduction;

(B) an evaluation of the effect, if any, of the reintroduction on the existing population of California Central Valley Spring Run Chinook salmon existing on the Sacramento River or its tributaries; and

(C) an assessment regarding the future of the reintroduction.

(e) FERC Projects.--

(1) In general.-- With regard to California Central Valley Spring Run Chinook salmon reintroduced pursuant to the Settlement, the Secretary of Commerce shall exercise its authority under section 18 of the Federal Power Act (16 U.S.C. 811) by reserving its right to file prescriptions in proceedings for projects licensed by the Federal Energy Regulatory Commission on the Calaveras, Stanislaus, Tuolumne, Merced, and San Joaquin rivers and otherwise consistent with subsection (c) until after the expiration of the term of the Settlement, December 31, 2025, or the expiration of the designation made pursuant to subsection (b), whichever ends first.

(2) Effect of subsection.--Nothing in this subsection shall preclude the Secretary of Commerce from imposing prescriptions pursuant to section 18 of the Federal Power Act (16 U.S.C. 811) solely for other anadromous fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(f) Effect of Section.-- Nothing in this section is intended or shall be construed--

(1) to modify the Endangered Species Act of 1973 (16 U.S.C.1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.); or

(2) to establish a precedent with respect to any other application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.).

**PART II--STUDY TO DEVELOP WATER PLAN; REPORT**

**Sec. 10101. [Study to Develop Water Plan; Report.]**

(a) Plan.--

(1) Grant.--To the extent that funds are made available in advance for this purpose, the Secretary of the Interior, acting through the Bureau of Reclamation, shall provide direct financial assistance to the California Water Institute, located at California State University, Fresno, California, to conduct a study regarding the coordination and integration of sub-regional integrated regional water management plans into a unified Integrated Regional Water Management Plan for the subject counties in the hydrologic basins that would address issues related to--

(A) water quality;

(B) water supply (both surface, ground water banking, and brackish water desalination);

(C) water conveyance;

(D) water reliability;

(E) water conservation and efficient use (by distribution systems and by end users);

(F) flood control;

(G) water resource-related environmental enhancement; and

(H) population growth.

(2) Study area.--The study area referred to in paragraph (1) is the proposed study area of the San Joaquin River Hydrologic Region and Tulare Lake Hydrologic Region, as defined by California Department of Water Resources Bulletin 160-05, volume 3, chapters 7 and 8, including Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, and San Joaquin counties in California.

(b) Use of Plan.-- The Integrated Regional Water Management Plan developed for the 2 hydrologic basins under subsection (a) shall serve as a guide for the counties in the study area described in subsection (a)(2) to use as a mechanism to address and solve long-term water needs in a sustainable and equitable manner.

(c) Report.-- The Secretary shall ensure that a report containing the results of the Integrated Regional Water Management Plan for the hydrologic regions is submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than 24 months after financial assistance is made available to the California Water Institute under subsection (a)(1).

(d) Authorization of Appropriations.-- There are authorized to be appropriated to carry out this section $1,000,000 to remain available until expended.

**PART III--FRIANT DIVISION IMPROVEMENTS**

**Sec. 10201. [Federal Facility Improvements.]**

(a) The Secretary of the Interior (hereafter referred to as the “Secretary") is authorized and directed to conduct feasibility studies in coordination with appropriate Federal, State, regional, and local authorities on the following improvements and facilities in the Friant Division, Central Valley Project, California:

(1) Restoration of the capacity of the Friant-Kern Canal and Madera Canal to such capacity as previously designed and constructed by the Bureau of Reclamation.

(2) Reverse flow pump-back facilities on the Friant-Kern Canal, with reverse-flow capacity of approximately 500 cubic feet per second at the Poso and Shafter Check Structures and approximately 300 cubic feet per second at the Woollomes Check Structure.

(b) Upon completion of and consistent with the applicable feasibility studies, the Secretary is authorized to construct the improvements and facilities identified in subsection (a) in accordance with all applicable Federal and State laws.

(c) The costs of implementing this section shall be in accordance with section 10203, and shall be a nonreimbursable Federal expenditure.

**Sec. 10202. [Financial Assistance for Local Projects.]**

(a) Authorization.--The Secretary is authorized to provide financial assistance to local agencies within the Central Valley Project, California, for the planning, design, environmental compliance, and construction of local facilities to bank water underground or to recharge groundwater, and that recover such water, provided that the project meets the criteria in subsection (b). The Secretary is further authorized to require that any such local agency receiving financial assistance under the terms of this section submit progress reports and accountings to the Secretary, as the Secretary deems appropriate, which such reports shall be publicly available.

(b) Criteria.--

(1) A project shall be eligible for Federal financial assistance under subsection (a) only if all or a portion of the project is designed to reduce, avoid, or offset the quantity of the expected water supply impacts to Friant Division long-term contractors caused by the Interim or Restoration Flows authorized in part I of this subtitle, and such quantities have not already been reduced, avoided, or offset by other programs or projects.

(2) Federal financial assistance shall only apply to the portion of a project that the local agency designates as reducing, avoiding, or offsetting the expected water supply impacts caused by the Interim or Restoration Flows authorized in part I of this subtitle, consistent with the methodology developed pursuant to paragraph (3)(C).

(3) No Federal financial assistance shall be provided by the Secretary under this part for construction of a project under subsection (a) unless the Secretary--

(A) determines that appropriate planning, design, and environmental compliance activities associated with such a project have been completed, and that the Secretary has been offered the opportunity to participate in the project at a price that is no higher than the local agency's own costs, in order to secure necessary storage, extraction, and conveyance rights for water that may be needed to meet the Restoration Goal as described in part I of this subtitle, where such project has capacity beyond that designated for the purposes in paragraph (2) or where it is feasible to expand such project to allow participation by the Secretary;

(B) determines, based on information available at the time, that the local agency has the financial capability and willingness to fund its share of the project's construction and all operation and maintenance costs on an annual basis;

(C) determines that a method acceptable to the Secretary has been developed for quantifying the benefit, in terms of reduction, avoidance, or offset of the water supply impacts expected to be caused by the Interim or Restoration Flows authorized in part I of this subtitle, that will result from the project, and for ensuring appropriate adjustment in the recovered water account pursuant to section 10004(a)(5); and

(D) has entered into a cost-sharing agreement with the local agency which commits the local agency to funding its share of the project's construction costs on an annual basis.

(c) Guidelines.-- Within 1 year from the date of enactment of this part, the Secretary shall develop, in consultation with the Friant Division long-term contractors, proposed guidelines for the application of the criteria defined in subsection (b), and will make the proposed guidelines available for public comment. Such guidelines may consider prioritizing the distribution of available funds to projects that provide the broadest benefit within the affected area and the equitable allocation of funds. Upon adoption of such guidelines, the Secretary shall implement such assistance program, subject to the availability of funds appropriated for such purpose.

(d) Cost Sharing.-- The Federal financial assistance provided to local agencies under subsection (a) shall not exceed--

(1) 50 percent of the costs associated with planning, design, and environmental compliance activities associated with such a project; and

(2) 50 percent of the costs associated with construction of any such project.

(e) Project Ownership.--

(1) Title to, control over, and operation of, projects funded under subsection (a) shall remain in one or more non-Federal local agencies. Nothing in this part authorizes the Secretary to operate a groundwater bank along or adjacent to the San Joaquin River upstream of the confluence with the Merced River, and any such groundwater bank shall be operated by a non-Federal entity. All projects funded pursuant to this subsection shall comply with all applicable Federal and State laws, including provisions of California water law.

(2) All operation, maintenance, and replacement and rehabilitation costs of such projects shall be the responsibility of the local agency. The Secretary shall not provide funding for any operation, maintenance, or replacement and rehabilitation costs of projects funded under subsection (a).

**Sec. 10203. [Authorization of Appropriations.]**

(a) The Secretary is authorized and directed to use monies from the fund established under section 10009 to carry out the provisions of section 10201(a)(1), in an amount not to exceed $35,000,000.

(b) In addition to the funds made available pursuant to subsection (a), the Secretary is also authorized to expend such additional funds from the fund established under section 10009 to carry out the purposes of section 10201(a)(2), if such facilities have not already been authorized and funded under the plan provided for pursuant to section 10004(a)(4), in an amount not to exceed $17,000,000, provided that the Secretary first determines that such expenditure will not conflict with or delay his implementation of actions required by part I of this subtitle. Notice of the Secretary's determination shall be published not later than his submission of the report to Congress required by section 10009(f)(2).

(c) In addition to funds made available in subsections (a) and (b), there are authorized to be appropriated $50,000,000 (October 2008 price levels) to carry out the purposes of this part which shall be non-reimbursable.

**Subtitle B--Northwestern New Mexico Rural Water Projects**

**Sec. 10301. [Short Title.]--** This subtitle may be cited as the “Northwestern New Mexico Rural Water Projects Act".

**Sec. 10302. [Definitions.]--** In this subtitle:
(1) Aamodt adjudication.--The term “Aamodt adjudication" means the general stream adjudication that is the subject of the civil action entitled “State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.", No. 66 CV 6639 MV/LCS (D.N.M.).
(2) Abeyta adjudication.-- The term “Abeyta adjudication" means the general stream adjudication that is the subject of the civil actions entitled “State of New Mexico v. Abeyta and State of New Mexico v. Arrellano", Civil Nos. 7896-BB (D.N.M) and 7939-BB (D.N.M.) (consolidated).
(3) Acre-feet.-- The term “acre-feet" means acre-feet per year.
(4) Agreement.-- The term “Agreement" means the agreement among the State of New Mexico, the Nation, and the United States setting forth a stipulated and binding agreement signed by the State of New Mexico and the Nation on April 19, 2005.
(5) Allottee.-- The term “allottee" means a person that holds a beneficial real property interest in a Navajo allotment that--
(A) is located within the Navajo Reservation or the State of New Mexico;
(B) is held in trust by the United States; and
(C) was originally granted to an individual member of the Nation by public land order or otherwise.
(6) Animas-la plata project.-- The term “Animas-La Plata Project" has the meaning given the term in section 3 of Public Law 100-585 (102 Stat. 2973), including Ridges Basin Dam, Lake Nighthorse, the Navajo Nation Municipal Pipeline, and any other features or modifications made pursuant to the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554; 114 Stat. 2763A-258).
(7) City.-- The term “City" means the city of Gallup, New Mexico, or a designee of the City, with authority to provide water to the Gallup, New Mexico service area.
(8) Colorado river compact.--The term “Colorado River Compact" means the Colorado River Compact of 1922 as approved by Congress in the Act of December 21, 1928 (45 Stat. 1057) and by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000).
(9) Colorado river system.-- The term “Colorado River System" has the same meaning given the term in Article II(a) of the Colorado River Compact.
(10) Compact.-- The term “Compact" means the Upper Colorado River Basin Compact as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48).
(11) Contract.-- The term “Contract" means the contract between the United States and the Nation setting forth certain commitments, rights, and obligations of the United States and the Nation, as described in paragraph 6.0 of the Agreement.
(12) Depletion.-- The term “depletion" means the depletion of the flow of the San Juan River stream system in the State of New Mexico by a particular use of water (including any depletion incident to the use) and represents the diversion from the stream system by the use, less return flows to the stream system from the use.
(13) Draft impact statement.-- The term “Draft Impact Statement" means the draft environmental impact statement prepared by the Bureau of Reclamation for the Project dated March 2007.
(14) Fund.-- The term “Fund" means the Reclamation Waters Settlements Fund established by section 10501(a).

(15) Hydrologic determination.-- The term “hydrologic determination" means the hydrologic determination entitled “Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico," prepared by the Bureau of Reclamation pursuant to section 11 of the Act of June 13, 1962 (Public Law 87-483; 76 Stat. 99), and dated May 23, 2007.
(16) Lower basin.-- The term “Lower Basin" has the same meaning given the term in Article II(g) of the Colorado River Compact.
(17) Nation.--The term “Nation" means the Navajo Nation, a body politic and federally-recognized Indian nation as provided for in section 101(2) of the Federally Recognized Indian Tribe List of 1994 (25 U.S.C. 497a(2)), also known variously as the “Navajo Tribe," the “Navajo Tribe of Arizona, New Mexico & Utah," and the “Navajo Tribe of Indians" and other similar names, and includes all bands of Navajo Indians and chapters of the Navajo Nation.
(18) Navajo-Gallup water supply project; project.-- The term “Navajo-Gallup Water Supply Project" or ``Project" means the Navajo-Gallup Water Supply Project authorized under section 10602(a), as described as the preferred alternative in the Draft Impact Statement.
(19) Navajo Indian Irrigation Project.--The term “Navajo Indian Irrigation Project" means the Navajo Indian irrigation project authorized by section 2 of Public Law 87-483 (76 Stat. 96).
(20) Navajo reservoir.--The term “Navajo Reservoir" means the reservoir created by the impoundment of the San Juan River at Navajo Dam, as authorized by the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act") (43 U.S.C. 620 et seq.).
(21) Navajo nation municipal pipeline; pipeline.--The term “Navajo Nation Municipal Pipeline" or “Pipeline" means the pipeline used to convey the water of the Animas-La Plata Project of the Navajo Nation from the City of Farmington, New Mexico, to communities of the Navajo Nation located in close proximity to the San Juan River Valley in the State of New Mexico (including the City of Shiprock), as authorized by section 15(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973; 114 Stat. 2763A-263).
(22) Non-Navajo irrigation districts.-- The term “Non-Navajo Irrigation Districts" means-
(A) the Hammond Conservancy District;
(B) the Bloomfield Irrigation District; and
(C) any other community ditch organization in the San Juan River basin in the State of New Mexico.
(23) Partial final decree.-- The term “Partial Final Decree" means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth the rights of the Nation to use and administer waters of the San Juan River Basin in New Mexico, as set forth in Appendix 1 of the Agreement.
(24) Project participants.-- The term “Project Participants" means the City, the Nation, and the Jicarilla Apache Nation.
(25) San Juan River Basin Recovery Implementation Program.-- The term “San Juan River Basin Recovery Implementation Program" means the intergovernmental program established pursuant to the cooperative agreement dated October 21, 1992 (including any amendments to the program).
(26) Secretary.-- The term “Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation or any other designee.
(27) Stream adjudication.-- The term “stream adjudication" means the general stream adjudication that is the subject of New Mexico v. United States, et al., No. 75-185 (11th Jud. Dist., San Juan County, New Mexico) (involving claims to waters of the San Juan River and the tributaries of that river).

(28) Supplemental partial final decree.-- The term “Supplemental Partial Final Decree" means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth certain water rights of the Nation, as set forth in Appendix 2 of the Agreement.
(29) Trust fund.-- The term “Trust Fund" means the Navajo Nation Water Resources Development Trust Fund established by section 10702(a).
(30) Upper basin.--The term “Upper Basin" has the same meaning given the term in Article II(f) of the Colorado River Compact.

**Sec. 10303. [Compliance with Environmental Laws.]**

(a) Effect of Execution of Agreement.-- The execution of the Agreement under section 10701(a)(2) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
(b) Compliance with Environmental Laws.—In carrying out this subtitle, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including--

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

**Sec. 10304. [No Reallocation of Costs.]**

(a) Effect of Act.--Notwithstanding any other provision of law, the Secretary shall not reallocate or reassign any costs of projects that have been authorized under the Act of April 11, 1956 (commonly known as the ``Colorado River Storage Project Act") (43 U.S.C. 620 et seq.), as of the date of enactment of this Act because of--

(1) the authorization of the Navajo-Gallup Water Supply Project under this subtitle; or
(2) the changes in the uses of the water diverted by the Navajo Indian Irrigation Project or the waters stored in the Navajo Reservoir authorized under this subtitle.

(b) Use of Power Revenues.--Notwithstanding any other provision of law, no power revenues under the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act") (43 U.S.C. 620 et seq.), shall be used to pay or reimburse any costs of the Navajo Indian Irrigation Project or Navajo-Gallup Water Supply Project.

**Sec. 10305. [Interest Rates.]** Notwithstanding any other provision of law, the interest rate applicable to any repayment contract entered into under section 10604 shall be equal to the discount rate for Federal water resources planning, as determined by the Secretary.

**PART I--AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT AND PUBLIC LAW 87-483**

**Sec. 10401. [Amendments to the Colorado River Storage Project Act.]**

(a) Participating Projects.--Paragraph (2) of the first section of the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act") (43 U.S.C. 620(2)) is amended by inserting “the Navajo-Gallup Water Supply Project," after “Fruitland Mesa,".
(b) Navajo Reservoir Water Bank.--The Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act") is amended--

(1) by redesignating section 16 (43 U.S.C. 620o) as section 17; and
(2) by inserting after section 15 (43 U.S.C. 620n) the following:

“Sec. 16. (a) The Secretary of the Interior may create and operate within the available capacity of Navajo Reservoir a top water bank.

"(b) Water made available for the top water bank in accordance with subsections (c) and (d) shall not be subject to section 11 of Public Law 87-483 (76 Stat. 99).

"(c) The top water bank authorized under subsection (a) shall be operated in a manner that--

"(1) is consistent with applicable law, except that, notwithstanding any other provision of law, water for purposes other than irrigation may be stored in the Navajo Reservoir pursuant to the rules governing the top water bank established under this section; and

"(2) does not impair the ability of the Secretary of the Interior to deliver water under contracts entered into under--

"(A) Public Law 87-483 (76 Stat. 96); and

"(B) New Mexico State Engineer File Nos. 2847, 2848, 2849, and 2917.

"(d)(1) The Secretary of the Interior, in cooperation with the State of New Mexico (acting through the Interstate Stream Commission), shall develop any terms and procedures for the storage, accounting, and release of water in the top water bank that are necessary to comply with subsection (c).

"(2) The terms and procedures developed under paragraph (1) shall include provisions requiring that--

"(A) the storage of banked water shall be subject to approval under State law by the New Mexico State Engineer to ensure that impairment of any existing water right does not occur, including storage of water under New Mexico State Engineer File No. 2849;

"(B) water in the top water bank be subject to evaporation and other losses during storage;

"(C) water in the top water bank be released for delivery to the owner or assigns of the banked water on request of the owner, subject to reasonable scheduling requirements for making the release;

"(D) water in the top water bank be the first water spilled or released for flood control purposes in anticipation of a spill, on the condition that top water bank water shall not be released or included for purposes of calculating whether a release should occur for purposes of satisfying the flow recommendations of the San Juan River Basin Recovery Implementation Program; and

"(E) water eligible for banking in the top water bank shall be water that otherwise would have been diverted and beneficially used in New Mexico that year.

"(e) The Secretary of the Interior may charge fees to water users that use the top water bank in amounts sufficient to cover the costs incurred by the United States in administering the water bank.".

**Sec. 10402. [Amendments to Public Law 87-483.]**

(a) Navajo Indian Irrigation Project.-- Public Law 87-483 (76 Stat. 96) is amended by striking section 2 and inserting the following:

"Sec. 2. (a) In accordance with the Act of April 11, 1956 (commonly known as the `Colorado River Storage Project Act') (43 U.S.C. 620 et seq.), the Secretary of the Interior

is authorized to construct, operate, and maintain the Navajo Indian Irrigation Project to provide irrigation water to a service area of not more than 110,630 acres of land.

"(b)(1) Subject to paragraph (2), the average annual diversion by the Navajo Indian Irrigation Project from the Navajo Reservoir over any consecutive 10-year period shall be the lesser of--

"(A) 508,000 acre-feet per year; or

"(B) the quantity of water necessary to supply an average depletion of 270,000 acre-feet per year.

"(2) The quantity of water diverted for any 1 year shall not exceed the average annual diversion determined under paragraph (1) by more than 15 percent.

"(c) In addition to being used for irrigation, the water diverted by the Navajo Indian Irrigation Project under subsection (b) may be used within the area served by Navajo Indian Irrigation Project facilities for the following purposes:

"(1) Aquaculture purposes, including the rearing of fish in support of the San Juan River Basin Recovery Implementation Program authorized by Public Law 106-392 (114 Stat. 1602).

"(2) Domestic, industrial, or commercial purposes relating to agricultural production and processing.

"(3)(A) The generation of hydroelectric power as an incident to the diversion of water by the Navajo Indian Irrigation Project for authorized purposes.

"(B) Notwithstanding any other provision of law--

"(i) any hydroelectric power generated under this paragraph shall be used or marketed by the Navajo Nation;

"(ii) the Navajo Nation shall retain any revenues from the sale of the hydroelectric power; and

"(iii) the United States shall have no trust obligation to monitor, administer, or account for the revenues received by the Navajo Nation, or the expenditure of the revenues.

"(4) The implementation of the alternate water source provisions described in subparagraph 9.2 of the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act.

"(d) The Navajo Indian Irrigation Project water diverted under subsection (b) may be transferred to areas located within or outside the area served by Navajo Indian Irrigation Project facilities, and within or outside the boundaries of the Navajo Nation, for any beneficial use in accordance with—

"(1) the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act;

"(2) the contract executed under section 10604(a)(2)(B) of that Act; and

"(3) any other applicable law.

"(e) The Secretary may use the capacity of the Navajo Indian Irrigation Project works to convey water supplies for—

"(1) the Navajo-Gallup Water Supply Project under section 10602 of the Northwestern New Mexico Rural Water Projects Act; or

"(2) other nonirrigation purposes authorized under subsection (c) or (d).

"(f)(1) Repayment of the costs of construction of the project (as authorized in subsection (a)) shall be in accordance with the Act of April 11, 1956

(commonly known as the `Colorado River Storage Project Act') (43 U.S.C. 620 et seq.), including section 4(d) of that Act.

"(2) The Secretary shall not reallocate, or require repayment of, construction costs of the Navajo Indian Irrigation Project because of the conveyance of water supplies for nonirrigation purposes under subsection (e).".

(a) Runoff Above Navajo Dam.--Section 11 of Public Law 87-483 (76 Stat. 100) is amended by adding at the end the following:

"(d)(1) For purposes of implementing in a year of prospective shortage the water allocation procedures established by subsection (a), the Secretary of the Interior shall determine the quantity of any shortages and the appropriate apportionment of water using the normal diversion requirements on the flow of the San Juan River originating above Navajo Dam based on the following criteria:

"(A) The quantity of diversion or water delivery for the current year anticipated to be necessary to irrigate land in accordance with cropping plans prepared by contractors.

"(B) The annual diversion or water delivery demands for the current year anticipated for non-irrigation uses under water delivery contracts, including contracts authorized by the Northwestern New Mexico Rural Water Projects Act, but excluding any current demand for surface water for placement into aquifer storage for future recovery and use.

"(C) An annual normal diversion demand of 135,000 acre-feet for the initial stage of the San Juan-Chama Project authorized by section 8, which shall be the amount to which any shortage is applied.

"(2) The Secretary shall not include in the normal diversion requirements--

"(A) the quantity of water that reliably can be anticipated to be diverted or delivered under a contract from inflows to the San Juan River arising below Navajo Dam under New Mexico State Engineer File No. 3215; or

"(B) the quantity of water anticipated to be supplied through reuse.

"(e)(1) If the Secretary determines that there is a shortage of water under subsection (a), the Secretary shall respond to the shortage in the Navajo Reservoir water supply by curtailing releases and deliveries in the following order:

"(A) The demand for delivery for uses in the State of Arizona under the Navajo-Gallup Water Supply Project authorized by section 10603 of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for the uses from inflows to the San Juan River that arise below Navajo Dam in accordance with New Mexico State Engineer File No. 3215.

"(B) The demand for delivery for uses allocated under paragraph 8.2 of the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for such uses under State Engineer File No. 3215.

"(C) The uses in the State of New Mexico that are determined under subsection (d), in accordance with the procedure for apportioning the water supply under subsection (a).

"(2) For any year for which the Secretary determines and responds to a shortage in the Navajo Reservoir water supply, the Secretary shall not deliver, and contractors of the water supply shall not divert, any of the water supply for placement into aquifer storage for future recovery and use.

"(3) To determine the occurrence and amount of any shortage to contracts entered into under this section, the Secretary shall not include as available storage any water stored in a top water bank in Navajo Reservoir established under section 16(a) of the Act of April 11, 1956 (commonly known as the `Colorado River Storage Project Act').

"(f) The Secretary of the Interior shall apportion water under subsections (a), (d), and (e) on an annual volume basis.

"(g) The Secretary of the Interior may revise a determination of shortages, apportionments, or allocations of water under subsections (a), (d), and (e) on the basis of information relating to water supply conditions that was not available at the time at which the determination was made.

"(h) Nothing in this section prohibits the distribution of water in accordance with cooperative water agreements between water users providing for a sharing of water supplies.

"(i) Diversions under New Mexico State Engineer File No. 3215 shall be distributed, to the maximum extent water is available, in proportionate amounts to the diversion demands of contractors and subcontractors of the Navajo Reservoir water supply that are diverting water below Navajo Dam.".

**Sec. 10403. [Effect on Federal Water Law.]** Unless expressly provided in this subtitle, nothing in this subtitle modifies, conflicts with, preempts, or otherwise affects--

(1) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(2) the Boulder Canyon Project Adjustment Act (54 Stat. 774, chapter 643);

the Act of April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620 et seq.);

(4) the Act of September 30, 1968 (commonly known as the "Colorado River Basin Project Act") (82 Stat. 885);

(5) Public Law 87-483 (76 Stat. 96);

(6) the Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington February 3, 1944 (59 Stat. 1219);

(7) the Colorado River Compact of 1922, as approved by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000);

(8) the Compact;

(9) the Act of April 6, 1949 (63 Stat. 31, chapter 48);

(10) the Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2237); or

(11) section 205 of the Energy and Water Development Appropriations Act, 2005 (118 Stat. 2949).

**PART II--RECLAMATION WATER SETTLEMENTS FUND**

**Sec. 10501. [Reclamation Water Settlements Fund.]**

(a) Establishment.-- There is established in the Treasury of the United States a fund, to be known as the "Reclamation Water Settlements Fund", consisting of--

(1) such amounts as are deposited to the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund under subsection (d).

(b) Deposits to Fund.--

(1) In general.-- For each of fiscal years 2020 through 2029, the Secretary of the Treasury shall deposit in the Fund, if available, $120,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093).

(2) Availability of amounts.--Amounts deposited in the Fund under paragraph (1) shall be made available pursuant to this section--

(A) without further appropriation; and

(B) in addition to amounts appropriated pursuant to any authorization contained in any other provision of law.

(c) Expenditures from Fund.--

(1) In general.--

(A) Expenditures.--Subject to subparagraph (B), for each of fiscal years 2020 through 2034, the Secretary may expend from the Fund an amount not to exceed $120,000,000, plus the interest accrued in the Fund, for the fiscal year in which expenditures are made pursuant to paragraphs (2) and (3).

(B) Additional expenditures.--The Secretary may expend more than $120,000,000 for any fiscal year if such amounts are available in the Fund due to expenditures not reaching $120,000,000 for prior fiscal years.

(2) Authority.--The Secretary may expend money from the Fund to implement a settlement agreement approved by Congress that resolves, in whole or in part, litigation involving the United States, if the settlement agreement or implementing legislation requires the Bureau of Reclamation to provide financial assistance for, or plan, design, and construct--

(A) water supply infrastructure; or

(B) a project--

(i) to rehabilitate a water delivery system to conserve water; or

(ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by, or located within the same river basin as, a Federal reclamation project that is in existence on the date of enactment of this Act.

(3) Use for completion of project and other settlements.--

(A) Priorities.--

(i) First priority.--

(I) In general.--The first priority for expenditure of amounts in the Fund during the entire period in which the Fund is in existence shall be for the purposes described in, and in the order of, clauses (i) through (iv) of subparagraph (B).

(II) Reserved amounts.--The Secretary shall reserve and use amounts deposited into the Fund in accordance with subclause (I).

(ii) Other purposes.--Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

(B) Completion of project.--

(i) Navajo-Gallup water supply project.--

(I) In general.--Subject to subclause (II), effective beginning January 1, 2020, if, in the judgment of the Secretary on an annual basis the deadline described in section 10701(e)(1)(A)(ix) is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 10609(a), the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

(II) Maximum amount.--

(aa) In general.--Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $500,000,000 for the period of fiscal years 2020 through 2029.

(bb) Exception.--The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (ii) through (iv).

(ii) Other New Mexico settlements.--

(I) In general.--Subject to subclause (II), effective beginning January 1, 2020, in addition to the funding made available under clause (i), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing the Indian water rights settlement agreements entered into by the State of New Mexico in the Aamodt adjudication and the Abeyta adjudication, if such settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) Maximum amount.--The amount expended under subclause (I) shall not exceed $250,000,000.

(iii) Montana settlements.--

(I) In general.--Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i) and (ii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing Indian water rights settlement agreements entered into by the State of Montana with the Blackfeet Tribe, the Crow Tribe, or the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation in the judicial proceeding entitled ``In re the General Adjudication of All the Rights to Use Surface and Groundwater in the

State of Montana", if a settlement or settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) Maximum amount.--

(aa) In general.--Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $350,000,000 for the period of fiscal years 2020 through 2029.

(bb) Exception.--The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clause (i), (ii), and (iv).

(cc) Other funding.--The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

(iv) Arizona settlement.--

(I) In general.--Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i), (ii), and (iii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing an Indian water rights settlement agreement entered into by the State of Arizona with the Navajo Nation to resolve the water rights claims of the Nation in the Lower Colorado River basin in Arizona, if a settlement is subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) Maximum amount.--

(aa) In general.--Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $100,000,000 for the period of fiscal years 2020 through 2029.

(bb) Exception.--The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (i) through (iii).

(cc) Other funding.--The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

(C) Reversion.--If the settlements described in clauses (ii) through (iv) of subparagraph (B) have not been approved and authorized by an Act of Congress by December 31, 2019, the amounts reserved for the settlements shall no longer be reserved by the Secretary pursuant to subparagraph (A)(i) and shall revert to the Fund for any authorized use, as determined by the Secretary.

(d) Investment of Amounts.--

(1) In general.--The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) Credits to fund.--The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

(e) Transfers of Amounts.--

(1) In general.--The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments.--Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) Termination.--On September 30, 2034--

(1) the Fund shall terminate; and

(2) the unexpended and unobligated balance of the Fund shall be transferred to the appropriate fund of the Treasury.

**PART III--NAVAJO-GALLUP WATER SUPPLY PROJECT**

**Sec. 10601. [Purports.]** The purposes of this part are--

(1) to authorize the Secretary to construct, operate, and maintain the Navajo-Gallup Water Supply Project;

(2) to allocate the capacity of the Project among the Nation, the City, and the Jicarilla Apache Nation; and

(3) to authorize the Secretary to enter into Project repayment contracts with the City and the Jicarilla Apache Nation.

**Sec. 10602. [Authorization of Navajo-Gallup Water Supply Project.]**

(a) In General.-- The Secretary, acting through the Commissioner of Reclamation, is authorized to design, construct, operate, and maintain the Project in substantial accordance with the preferred alternative in the Draft Impact Statement.

(b) Project Facilities.-- To provide for the delivery of San Juan River water to Project Participants, the Secretary may construct, operate, and maintain the Project facilities described in the preferred alternative in the Draft Impact Statement, including:

(1) A pumping plant on the San Juan River in the vicinity of Kirtland, New Mexico.

(2)(A) A main pipeline from the San Juan River near Kirtland, New Mexico, to Shiprock, New Mexico, and Gallup, New Mexico, which follows United States Highway 491.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(3)(A) A main pipeline from Cutter Reservoir to Ojo Encino, New Mexico, which follows United States Highway 550.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(4)(A) Lateral pipelines from the main pipelines to Nation communities in the States of New Mexico and Arizona.

(B) Any pumping plants associated with the pipelines authorized under subparagraph (A).

(5) Any water regulation, storage or treatment facility, service connection to an existing public water supply system, power substation, power distribution works, or other appurtenant works (including a building or access road) that is related to the Project

facilities authorized by paragraphs (1) through (4), including power transmission facilities and associated wheeling services to connect Project facilities to existing high-voltage transmission facilities and deliver power to the Project.

(c) Acquisition of Land.--

(1) In general.-- The Secretary is authorized to acquire any land or interest in land that is necessary to construct, operate, and maintain the Project facilities authorized under subsection (b).

(2) Land of the project participants.--As a condition of construction of the facilities authorized under this part, the Project Participants shall provide all land or interest in land, as appropriate, that the Secretary identifies as necessary for acquisition under this subsection at no cost to the Secretary.

(3) Limitation.-- The Secretary may not condemn water rights for purposes of the Project.

(d) Conditions.--

(1) In general.-- Except as provided in paragraph (2), the Secretary shall not commence construction of the facilities authorized under subsection (b) until such time as--

(A) the Secretary executes the Agreement and the Contract;

(B) the contracts authorized under section 10604 are executed;

(C) the Secretary--

(i) completes an environmental impact statement for the Project; and

(ii) has issued a record of decision that provides for a preferred alternative; and

(D) the Secretary has entered into an agreement with the State of New Mexico under which the State of New Mexico will provide a share of the construction costs of the Project of not less than $50,000,000, except that the State of New Mexico shall receive credit for funds the State has contributed to construct water conveyance facilities to the Project Participants to the extent that the facilities reduce the cost of the Project as estimated in the Draft Impact Statement.

(2) Exception.--If the Jicarilla Apache Nation elects not to enter into a contract pursuant to section 10604, the Secretary, after consulting with the Nation, the City, and the State of New Mexico acting through the Interstate Stream Commission, may make appropriate modifications to the scope of the Project and proceed with Project construction if all other conditions for construction have been satisfied.

(3) Effect of indian self-determination and education assistance act.--The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design, construction, operation, maintenance, or replacement of the Project.

(e) Power.-- The Secretary shall reserve, from existing reservations of Colorado River Storage Project power for Bureau of Reclamation projects, up to 26 megawatts of power for use by the Project.

(f) Conveyance of Title to Project Facilities.—

(1) In general.-- The Secretary is authorized to enter into separate agreements with the City and the Nation and, on entering into the agreements, shall convey title to each Project facility or section of a Project facility authorized under subsection (b) (including any appropriate interests in land) to the City and the Nation after--

(A) completion of construction of a Project facility or a section of a Project facility that is operating and delivering water; and

(B) execution of a Project operations agreement approved by the Secretary and the Project Participants that sets forth--

(i) any terms and conditions that the Secretary determines are necessary--

(I) to ensure the continuation of the intended benefits of the Project; and

(II) to fulfill the purposes of this part;

(ii) requirements acceptable to the Secretary and the Project Participants for--

(I) the distribution of water under the Project or section of a Project facility; and

(II) the allocation and payment of annual operation, maintenance, and replacement costs of the Project or section of a Project facility based on the proportionate uses of Project facilities; and

(iii) conditions and requirements acceptable to the Secretary and the Project Participants for operating and maintaining each Project facility on completion of the conveyance of title, including the requirement that the City and the Nation shall--

(I) comply with--

(aa) the Compact; and

(bb) other applicable law; and

(II) be responsible for--

(aa) the operation, maintenance, and replacement of each Project facility; and

(bb) the accounting and management of water conveyance and Project finances, as necessary to administer and fulfill the conditions of the Contract executed under section 10604(a)(2)(B).

(2) Effect of conveyance.--The conveyance of title to each Project facility shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relation to the use of the water associated with the Project.

(3) Liability.--

(A) In general.-- Effective on the date of the conveyance authorized by this subsection, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land, buildings, or facilities conveyed under this subsection, other than damages caused by acts of negligence committed by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) Tort claims.--Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(4) Notice of proposed conveyance.-- Not later than 45 days before the date of a proposed conveyance of title to any Project facility, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate notice of the conveyance of each Project facility.

(g) Colorado River Storage Project Power.-- The conveyance of Project facilities under subsection (f) shall not affect the availability of Colorado River Storage Project power to the Project under subsection (e).

(h) Regional Use of Project Facilities.--

(1) In general.-- Subject to paragraph (2), Project facilities constructed under subsection (b) may be used to treat and convey non-Project water or water that is not allocated by subsection 10603(b) if--

(A) capacity is available without impairing any water delivery to a Project Participant; and

(B) the unallocated or non-Project water beneficiary--

(i) has the right to use the water;

(ii) agrees to pay the operation, maintenance, and replacement costs assignable to the beneficiary for the use of the Project facilities; and

(iii) agrees to pay an appropriate fee that may be established by the Secretary to assist in the recovery of any capital cost allocable to that use.

(2) Effect of payments.-- Any payments to the United States or the Nation for the use of unused capacity under this subsection or for water under any subcontract with the Nation or the Jicarilla Apache Nation shall not alter the construction repayment requirements or the operation, maintenance, and replacement payment requirements of the Project Participants.

**Sec 10603. [Delivery and Use of Navajo-Gallup Water Supply Project Water.]**

(a) Use of Project Water.--

(1) In general.-- In accordance with this subtitle and other applicable law, water supply from the Project shall be used for municipal, industrial, commercial, domestic, and stock watering purposes.

(2) Use on certain land.--

(A) In general.-- Subject to subparagraph (B), the Nation may use Project water allocations on--

(i) land held by the United States in trust for the Nation and members of the Nation; and

(ii) land held in fee by the Nation.

(B) Transfer.-- The Nation may transfer the purposes and places of use of the allocated water in accordance with the Agreement and applicable law.

(3) Hydroelectric power.--

(A) In general.-- Hydroelectric power may be generated as an incident to the delivery of Project water for authorized purposes under paragraph (1).

(B) Administration.-- Notwithstanding any other provision of law--

(i) any hydroelectric power generated under this paragraph shall be used or marketed by the Nation;

(ii) the Nation shall retain any revenues from the sale of the hydroelectric power; and

(iii) the United States shall have no trust obligation or other obligation to monitor, administer, or account for the revenues received by the Nation, or the expenditure of the revenues.

(4) Storage.--

(A) In general.-- Subject to subparagraph (B), any water contracted for delivery under paragraph (1) that is not needed for current water demands or uses may be delivered by the Project for placement in underground storage in the State of New Mexico for future recovery and use.

(B) State approval.-- Delivery of water under subparagraph (A) is subject to--

(i) approval by the State of New Mexico under applicable provisions of State law relating to aquifer storage and recovery; and

(ii) the provisions of the Agreement and this subtitle.

(b) Project Water and Capacity Allocations.--

(1) Diversion.-- Subject to availability and consistent with Federal and State law, the Project may divert from the Navajo Reservoir and the San Juan River a quantity of water to be allocated and used consistent with the Agreement and this subtitle, that does not exceed in any 1 year, the lesser of--

(A) 37,760 acre-feet of water; or

(B) the quantity of water necessary to supply a depletion from the San Juan River of 35,890 acre-feet.

(2) Project delivery capacity allocations.--

(A) In general.--The capacity of the Project shall be allocated to the Project Participants in accordance with subparagraphs (B) through (E), other provisions of this subtitle, and other applicable law.

(B) Delivery capacity allocation to the city.--The Project may deliver at the point of diversion from the San Juan River not more than 7,500 acre-feet of water in any 1 year for which the City has secured rights for the use of the City.

(C) Delivery capacity allocation to Navajo Nation communities in New Mexico.--For use by the Nation in the State of New Mexico, the Project may deliver water out of the water rights held by the Secretary for the Nation and confirmed under this subtitle, at the points of diversion from the San Juan River or at Navajo Reservoir in any 1 year, the lesser of--

(i) 22,650 acre-feet of water; or

(ii) the quantity of water necessary to supply a depletion from the San Juan River of 20,780 acre-feet of water.

(D) Delivery capacity allocation to Navajo Nation Communities in Arizona.--Subject to subsection (c), the Project may deliver at the point of diversion from the San Juan River not more than 6,411 acre-feet of water in any 1 year for use by the Nation in the State of Arizona.

(E) Delivery capacity allocation to Jicarilla Apache Nation.--The Project may deliver at Navajo Reservoir not more than 1,200 acre-feet of water in any 1 year of the water rights of the Jicarilla Apache Nation, held by the Secretary and confirmed by the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441; 106 Stat. 2237), for use by the Jicarilla Apache Nation in the southern portion of the Jicarilla Apache Nation Reservation in the State of New Mexico.

(3) Use in excess of delivery capacity allocation quantity.--Notwithstanding each delivery capacity allocation quantity limit described in subparagraphs (B), (C), and (E) of paragraph (2), the Secretary may authorize a Project Participant to exceed the delivery capacity allocation quantity limit of hat Project Participant if--

(A) delivery capacity is available without impairing any water delivery to any other Project Participant; and

(B) the Project Participant benefitting from the increased allocation of delivery capacity--

(i) has the right under applicable law to use the additional water;

(ii) agrees to pay the operation, maintenance, and replacement costs relating to the additional use of any Project facility; and
(iii) agrees, if the Project title is held by the Secretary, to pay a fee established by the Secretary to assist in recovering capital costs relating to that additional use.

(c) Conditions for Use in Arizona.--

(1) Requirements.--Project water shall not be delivered for use by any community of the Nation located in the State of Arizona under subsection (b)(2)(D) until--

(A) the Nation and the State of Arizona have entered into a water rights settlement agreement approved by an Act of Congress that settles and waives the Nation's claims to water in the Lower Basin and the Little Colorado River Basin in the State of Arizona, including those of the United States on the Nation's behalf; and
(B) the Secretary and the Navajo Nation have entered into a Navajo Reservoir water supply delivery contract for the physical delivery and diversion of water via the Project from the San Juan River system to supply uses in the State of Arizona.

(2) Accounting of uses in Arizona.--

(A) In general.--Pursuant to paragraph (1) and notwithstanding any other provision of law, water may be diverted by the Project from the San Juan River in the State of New Mexico in accordance with an appropriate permit issued under New Mexico law for use in the State of Arizona within the Navajo Reservation in the Lower Basin; provided that any depletion of water that results from the diversion of water by the Project from the San Juan River in the State of New Mexico for uses within the State of Arizona (including depletion incidental to the diversion, impounding, or conveyance of water in the State of New Mexico for uses in the State of Arizona) shall be administered and accounted for as either--

(i) a part of, and charged against, the available consumptive use apportionment made to the State of Arizona by Article III(a) of the Compact and to the Upper Basin by Article III(a) of the Colorado River Compact, in which case any water so diverted by the Project into the Lower Basin for use within the State of Arizona shall not be credited as water reaching Lee Ferry pursuant to Article III(c) and III(d) of the Colorado River Compact; or
(ii) subject to subparagraph (B), a part of, and charged against, the consumptive use apportionment made to the Lower Basin by Article III(a) of the Colorado River Compact, in which case it shall--

(I) be a part of the Colorado River water that is apportioned to the State of Arizona in Article II(B) of the Consolidated Decree of the Supreme Court of the United States in *Arizona v. California* (547 U.S. 150) (as may be amended or supplemented);
(II) be credited as water reaching Lee Ferry pursuant to Article III(c) and III(d) of the Colorado River Compact; and
(III) be accounted as the water identified in section 104(a)(1)(B)(ii) of the Arizona Water Settlements Act, (118 Stat. 3478).

(B) Limitation.--Notwithstanding subparagraph (A)(ii), no water diverted by the Project shall be accounted for pursuant to subparagraph (A)(ii) until such time that--

(i) the Secretary has developed and, as necessary and appropriate, modified, in consultation with the Upper Colorado River Commission and the Governors'

Representatives on Colorado River Operations from each State signatory to the Colorado River Compact, all operational and decisional criteria, policies, contracts, guidelines or other documents that control the operations of the Colorado River System reservoirs and diversion works, so as to adjust, account for, and offset the diversion of water apportioned to the State of Arizona, pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), from a point of diversion on the San Juan River in New Mexico; provided that all such modifications shall be
consistent with the provisions of this Section, and the modifications made pursuant to this clause shall be applicable only for the duration of any such diversions pursuant to section 10603(c)(2)(A)(ii); and

(ii) Article II(B) of the Decree of the Supreme Court of the United States in *Arizona v. California* (547 U.S. 150) as may be amended or supplemented) is administered so that diversions from the main stream for the Central Arizona Project, as served under existing contracts with the United States by diversion works heretofore constructed, shall be limited and reduced to offset any diversions made pursuant to section 10603(c)(2)(A)(ii) of this Act. This clause shall not affect, in any manner, the amount of water apportioned to Arizona pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), or amend any provisions of said decree or the Colorado River Basin Project Act (43 U.S.C. 1501 et. seq.).

(3) Upper basin protections.--

(A) Consultations.-- Henceforth, in any consultation pursuant to 16 U.S.C. 1536(a) with respect to water development in the San Juan River Basin, the Secretary shall confer with the States of Colorado and New Mexico, consistent with the provisions of section 5 of the ``Principles for Conducting Endangered Species Act Section 7 Consultations on Water Development and Water Management Activities Affecting Endangered Fish Species in the San Juan River Basin" as adopted by the Coordination Committee, San Juan River Basin Recovery Implementation Program, on June 19, 2001, and as may be amended or modified.

(B) Preservation of existing rights.-- Rights to the consumptive use of water available to the Upper Basin from the Colorado River System under the Colorado River Compact and the Compact shall not be reduced or prejudiced by any use of water pursuant to subsection 10603(c). Nothing in this Act shall be construed so as to impair, conflict with, or otherwise change the duties and powers of the Upper Colorado River Commission.

(d) Forbearance.--

(1) In general.-- Subject to paragraphs (2) and (3), during any year in which a shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona occurs (as determined under section 11 of Public Law 87-483 (76 Stat. 99)), the Nation may temporarily forbear the delivery of the water supply of the Navajo Reservoir for uses in the State of New Mexico under the apportionments of water to the Navajo Indian Irrigation Project and the normal diversion requirements of the Project to allow an equivalent quantity of water to be delivered from the Navajo Reservoir water supply for municipal and domestic uses of the Nation in the State of Arizona under the Project.

(2) Limitation of forbearance.-- The Nation may forebear the delivery of water under paragraph (1) of a quantity not exceeding the quantity of the shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona.

(3) Effect.-- The forbearance of the delivery of water under paragraph (1) shall be subject to the requirements in subsection (c).

(e) Effect.-- Nothing in this subtitle--

(1) authorizes the marketing, leasing, or transfer of the water supplies made available to the Nation under the Contract to non-Navajo water users in States other than the State of New Mexico; or

(2) authorizes the forbearance of water uses in the State of New Mexico to allow uses of water in other States other than as authorized under subsection (d).

(f) Colorado River Compacts.--Notwithstanding any other provision of law--

(1) water may be diverted by the Project from the San Juan River in the State of New Mexico for use within New Mexico in the lower basin, as that term is used in the Colorado River Compact;

(2) any water diverted under paragraph (1) shall be a part of, and charged against, the consumptive use apportionment made to the State of New Mexico by Article III(a) of the Compact and to the upper basin by Article III(a) of the Colorado River Compact; and

(3) any water so diverted by the Project into the lower basin within the State of New Mexico shall not be credited as water reaching Lee Ferry pursuant to Articles III(c) and III(d) of the Colorado River Compact.

(g) Payment of Operation, Maintenance, and Replacement Costs.--

(1) In general.-- The Secretary is authorized to pay the operation, maintenance, and replacement costs of the Project allocable to the Project Participants under section 10604 until the date on which the Secretary declares any section of the Project to be substantially complete and delivery of water generated by, and through, that section of the Project can be made to a Project participant.

(2) Project participant payments.-- Beginning on the date described in paragraph (1), each Project Participant shall pay all allocated operation, maintenance, and replacement costs for that substantially completed section of the Project, in accordance with contracts entered into pursuant to section 10604, except as provided in section 10604(f).

(h) No Precedent.-- Nothing in this Act shall be construed as authorizing or establishing a precedent for any type of transfer of Colorado River System water between the Upper Basin and Lower Basin. Nor shall anything in this Act be construed as expanding the Secretary's authority in the Upper Basin.

(i) Unique Situation.-- Diversions by the Project consistent with this section address critical tribal and non-Indian water supply needs under unique circumstances, which include, among other things--

(1) the intent to benefit an American Indian tribe;

(2) the Navajo Nation's location in both the Upper and Lower Basin;

(3) the intent to address critical Indian water needs in the State of Arizona and Indian and non-Indian water needs in the State of New Mexico,

(4) the location of the Navajo Nation's capital city of Window Rock in the State of Arizona in close proximity to the border of the State of New Mexico and the pipeline route for the Project;

(5) the lack of other reasonable options available for developing a firm, sustainable supply of municipal water for the Navajo Nation at Window Rock in the State of Arizona; and
(6) the limited volume of water to be diverted by the Project to supply municipal uses in the Window Rock area in the State of Arizona.

(j) Consensus.-- Congress notes the consensus of the Governors' Representatives on Colorado River Operations of the States that are signatory to the Colorado River Compact regarding the diversions authorized for the Project under this section.

(k) Efficient Use.-- The diversions and uses authorized for the Project under this Section represent unique and efficient uses of Colorado River apportionments in a manner that Congress has determined would be consistent with the obligations of the United States to the Navajo Nation.

**Sec. 10604. [Project Contracts.]**

(a) Navajo Nation Contract.--

(1) Hydrologic determination.--Congress recognizes that the Hydrologic Determination necessary to support approval of the Contract has been completed.

(2) Contract approval.--

(A) Approval.--

(i) In general.--Except to the extent that any provision of the Contract conflicts with this subtitle, Congress approves, ratifies, and confirms the Contract.

(ii) Amendments.--To the extent any amendment is executed to make the Contract consistent with this subtitle, that amendment is authorized, ratified, and confirmed.

(B) Execution of contract.--The Secretary, acting on behalf of the United States, shall enter into the Contract to the extent that the Contract does not conflict with this subtitle (including any amendment that is required to make the Contract consistent with this subtitle).

(3) Nonreimbursability of allocated costs.--The following costs shall be nonreimbursable and not subject to repayment by the Nation or any other Project beneficiary:

(A) Any share of the construction costs of the Nation relating to the Project authorized by section 10602(a).

(B) Any costs relating to the construction of the Navajo Indian Irrigation Project that may otherwise be allocable to the Nation for use of any facility of the Navajo Indian Irrigation Project to convey water to each Navajo community under the Project.

(C) Any costs relating to the construction of Navajo Dam that may otherwise be allocable to the Nation for water deliveries under the Contract.

(4) Operation, maintenance, and replacement obligation.-- Subject to subsection (f), the Contract shall include provisions under which the Nation shall pay any costs relating to the operation, maintenance, and replacement of each facility of the Project that are allocable to the Nation.

(5) Limitation, cancellation, termination, and rescission.-- The Contract may be limited by a term of years, canceled, terminated, or rescinded only by an Act of Congress.

(b) City of Gallup Contract.--

(1) Contract authorization.-- Consistent with this subtitle, the Secretary is authorized to enter into a repayment contract with the City that requires the City--

(A) to repay, within a 50-year period, the share of the construction costs of the City relating to the Project, with interest as provided under section 10305; and

(B) consistent with section 10603(g), to pay the operation, maintenance, and replacement costs of the Project that are allocable to the City.

(2) Contract prepayment.--

(A) In general.-- The contract authorized under paragraph (1) may allow the City to satisfy the repayment obligation of the City for construction costs of the Project on the payment of the share of the City prior to the initiation of construction.

(B) Amount.-- The amount of the share of the City described in subparagraph (A) shall be determined by agreement between the Secretary and the City.

(C) Repayment obligation.-- Any repayment obligation established by the Secretary and the City pursuant to subparagraph (A) shall be subject to a final cost allocation by the Secretary on project completion and to the limitations set forth in paragraph (3).

(3) Share of construction costs.--

(A) In general.-- Subject to subparagraph (B), the Secretary shall determine the share of the construction costs of the Project allocable to the City and establish the percentage of the allocated construction costs that the City shall be required to repay pursuant to the contract entered into under paragraph (1), based on the ability of the City to pay.

(B) Minimum percentage.-- Notwithstanding subparagraph (A), the repayment obligation of the City shall be at least 25 percent of the construction costs of the Project that are allocable to the City, but shall in no event exceed 35 percent.

(4) Excess construction costs.-- Any construction costs of the Project allocable to the City in excess of the repayment obligation of the City, as determined under paragraph (3), shall be nonreimbursable.

(5) Grant funds.-- A grant from any other Federal source shall not be credited toward the amount required to be repaid by the City under a repayment contract.

(6) Title transfer.-- If title is transferred to the City prior to repayment under section 10602(f), the City shall be required to provide assurances satisfactory to the Secretary of fulfillment of the remaining repayment obligation of the City.

(7) Water delivery subcontract.-- The Secretary shall not enter into a contract under paragraph (1) with the City until the City has secured a water supply for the City's portion of the Project described in section 10603(b)(2)(B), by entering into, as approved by the Secretary, a water delivery subcontract for a period of not less than 40 years beginning on the date on which the construction of any facility of the Project serving the City is completed, with--

(A) the Nation, as authorized by the Contract;

(B) the Jicarilla Apache Nation, as authorized by the settlement contract between the United States and the Jicarilla Apache Tribe, authorized by the Jicarilla Apache Tribe Water Rights Settlement (Public Law 102-441; 106 Stat. 2237); or

(C) an acquired alternate source of water, subject to approval of the Secretary and the State of New Mexico, acting through the New Mexico Interstate Stream Commission and the New Mexico State Engineer.

(c) Jicarilla Apache Nation Contract.--

(1) Contract authorization.--Consistent with this subtitle, the Secretary is authorized to enter into a repayment contract with the Jicarilla Apache Nation that requires the Jicarilla Apache Nation--

(A) to repay, within a 50-year period, the share of any construction cost of the Jicarilla Apache Nation relating to the Project, with interest as provided under section 10305; and

(B) consistent with section 10603(g), to pay the operation, maintenance, and replacement costs of the Project that are allocable to the Jicarilla Apache Nation.

(2) Contract prepayment.--

(A) In general.-- The contract authorized under paragraph (1) may allow the Jicarilla Apache Nation to satisfy the repayment obligation of the Jicarilla Apache Nation for construction costs of the Project on the payment of the share of the Jicarilla Apache Nation prior to the initiation of construction.

(B) Amount.-- The amount of the share of Jicarilla Apache Nation described in subparagraph (A) shall be determined by agreement between the Secretary and the Jicarilla Apache Nation.

(C) Repayment obligation.-- Any repayment obligation established by the Secretary and the Jicarilla Apache Nation pursuant to subparagraph (A) shall be subject to a final cost allocation by the Secretary on project completion and to the limitations set forth in paragraph (3).

(3) Share of construction costs.--

(A) In general.-- Subject to subparagraph (B), the Secretary shall determine the share of the construction costs of the Project allocable to the Jicarilla Apache Nation and establish the percentage of the allocated construction costs of the Jicarilla Apache Nation that the Jicarilla Apache Nation shall be required to repay based on the ability of the Jicarilla Apache Nation to pay.

(B) Minimum percentage.-- Notwithstanding subparagraph (A), the repayment obligation of the Jicarilla Apache Nation shall be at least 25 percent of the construction costs of the Project that are allocable to the Jicarilla Apache Nation, but shall in no event exceed 35 percent.

(4) Excess construction costs.-- Any construction costs of the Project allocable to the Jicarilla Apache Nation in excess of the repayment obligation of the Jicarilla Apache Nation as determined under paragraph (3), shall be nonreimbursable.

(5) Grant funds.-- A grant from any other Federal source shall not be credited toward the share of the Jicarilla Apache Nation of construction costs.

(6) Navajo indian irrigation project costs.-- The Jicarilla Apache Nation shall have no obligation to repay any Navajo Indian Irrigation Project construction costs that might otherwise be allocable to the Jicarilla Apache Nation for use of the Navajo Indian Irrigation Project facilities to convey water to the Jicarilla Apache Nation, and any such costs shall be nonreimbursable.

(d) Capital Cost Allocations.--

(1) In general.-- For purposes of estimating the capital repayment requirements of the Project Participants under this section, the Secretary shall review and, as appropriate, update the Draft Impact Statement allocating capital construction costs for the Project.

(2) Final cost allocation.-- The repayment contracts entered into with Project Participants under this section shall require that the Secretary perform a final cost allocation when construction of the Project is determined to be substantially complete.

(3) Repayment obligation.-- The Secretary shall determine the repayment obligation of the Project Participants based on the final cost allocation identifying reimbursable and nonreimbursable capital costs of the Project consistent with this subtitle.

(e) Operation, Maintenance, and Replacement Cost Allocations.-- For purposes of determining the operation, maintenance, and replacement obligations of the Project Participants under this section, the Secretary shall review and, as appropriate, update the Draft Impact Statement that allocates operation, maintenance, and replacement costs for the Project.

(f) Temporary Waivers of Payments.--

(1) In general.--On the date on which the Secretary declares a section of the Project to be substantially complete and delivery of water generated by and through that section of the Project can be made to the Nation, the Secretary may waive, for a period of not more than 10 years, the operation, maintenance, and replacement costs allocable to the Nation for that section of the Project that the Secretary determines are in excess of the ability of the Nation to pay.

(2) Subsequent payment by nation.--After a waiver under paragraph (1), the Nation shall pay all allocated operation, maintenance, and replacement costs of that section of the Project.

(3) Payment by united states.--Any operation, maintenance, or replacement costs waived by the Secretary under paragraph (1) shall be paid by the United States and shall be nonreimbursable.

(4) Effect on contracts.--Failure of the Secretary to waive costs under paragraph (1) because of a lack of availability of Federal funding to pay the costs under paragraph (3) shall not alter the obligations of the Nation or the United States under a repayment contract.

(5) Termination of authority.-- The authority of the Secretary to waive costs under paragraph (1) with respect to a Project facility transferred to the Nation under section 10602(f) shall terminate on the date on which the Project facility is transferred.

(g) Project Construction Committee.-- The Secretary shall facilitate the formation of a project construction committee with the Project Participants and the State of New Mexico--

(1) to review cost factors and budgets for construction and operation and maintenance activities;

(2) to improve construction management through enhanced communication; and

(3) to seek additional ways to reduce overall Project costs.

**Sec. 10605. [Navajo Nation Municipal Pipeline.]**

(a) Use of Navajo Nation Pipeline.-- In addition to use of the Navajo Nation Municipal Pipeline to convey the Animas-La Plata Project water of the Nation, the Nation may use the Navajo Nation Municipal Pipeline to convey non-Animas La Plata Project water for municipal and industrial purposes.

(b) Conveyance of Title to Pipeline.--

(1) In general.-- On completion of the Navajo Nation Municipal Pipeline, the Secretary may enter into separate agreements with the City of Farmington, New Mexico and the

Nation to convey title to each portion of the Navajo Nation Municipal Pipeline facility or section of the Pipeline to the City of Farmington and the Nation after execution of a Project operations agreement approved by the Secretary, the Nation, and the City of Farmington that sets forth any terms and conditions that the Secretary determines are necessary.

(2) Conveyance to the city of Farmington or Navajo nation.-- In conveying title to the Navajo Nation Municipal Pipeline under this subsection, the Secretary shall convey--

(A) to the City of Farmington, the facilities and any land or interest in land acquired by the United States for the construction, operation, and maintenance of the Pipeline that are located within the corporate boundaries of the City; and

(B) to the Nation, the facilities and any land or interests in land acquired by the United States for the construction, operation, and maintenance of the Pipeline that are located outside the corporate boundaries of the City of Farmington.

(3) Effect of conveyance.-- The conveyance of title to the Pipeline shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relating to the use of water associated with the Animas-La Plata Project.

(4) Liability.--

(A) In general.-- Effective on the date of the conveyance authorized by this subsection, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land, buildings, or facilities conveyed under this subsection, other than damages caused by acts of negligence committed by the United States or by employees or agents of the United States prior to the date of conveyance.

(B) Tort claims.--Nothing in this subsection increases the liability of the United States beyond the liability provided under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(5) Notice of proposed conveyance.-- Not later than 45 days before the date of a proposed conveyance of title to the Pipeline, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, notice of the conveyance of the Pipeline.

**Sec. 10606. [Authorization of Conjunctive Use Wells.]**

(a) Conjunctive Groundwater Development Plan.-- Not later than 1 year after the date of enactment of this Act, the Nation, in consultation with the Secretary, shall complete a conjunctive groundwater development plan for the wells described in subsections (b) and (c).

(b) Wells in the San Juan River Basin.-- In accordance with the conjunctive groundwater development plan, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of not more than 1,670 acre-feet of groundwater in the San Juan River Basin in the State of New Mexico for municipal and domestic uses.

(c) Wells in the Little Colorado and Rio Grande Basins.--

(1) In general.-- In accordance with the Project and conjunctive groundwater development plan for the Nation, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of-

(A) not more than 680 acre-feet of groundwater in the Little Colorado River Basin in the State of New Mexico;

(B) not more than 80 acre-feet of groundwater in the Rio Grande Basin in the State of New Mexico; and

(C) not more than 770 acre-feet of groundwater in the Little Colorado River Basin in the State of Arizona.

(2) Use.-- Groundwater diverted and distributed under paragraph (1) shall be used for municipal and domestic uses.

(d) Acquisition of Land.--

(1) In general.-- Except as provided in paragraph (2), the Secretary may acquire any land or interest in land that is necessary for the construction, operation, and maintenance of the wells and related pipeline facilities authorized under subsections (b) and (c).

(2) Limitation.-- Nothing in this subsection authorizes the Secretary to condemn water rights for the purposes described in paragraph (1).

(e) Condition.-- The Secretary shall not commence any construction activity relating to the wells described in subsections (b) and (c) until the Secretary executes the Agreement.

(f) Conveyance of Wells.--

(1) In general.-- On the determination of the Secretary that the wells and related facilities are substantially complete and delivery of water generated by the wells can be made to the Nation, an agreement with the Nation shall be entered into, to convey to the Nation title to-

(A) any well or related pipeline facility constructed or rehabilitated under subsections (a) and (b) after the wells and related facilities have been completed; and

(B) any land or interest in land acquired by the United States for the construction, operation, and maintenance of the well or related pipeline facility.

(2) Operation, maintenance, and replacement.--

(A) In general.-- The Secretary is authorized to pay operation and maintenance costs for the wells and related pipeline facilities authorized under this subsection until title to the facilities is conveyed to the Nation.

(B) Subsequent assumption by nation.--On completion of a conveyance of title under paragraph (1), the Nation shall assume all responsibility for the operation and maintenance of the well or related pipeline facility conveyed.

(3) Effect of conveyance.-- The conveyance of title to the Nation of the conjunctive use wells under paragraph (1) shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(g) Use of Project Facilities.-- The capacities of the treatment facilities, main pipelines, and lateral pipelines of the Project authorized by section 10602(b) may be used to treat and convey groundwater to Nation communities if the Nation provides for payment of the operation, maintenance, and replacement costs associated with the use of the facilities or pipelines.

(h) Limitations.-- The diversion and use of groundwater by wells constructed or rehabilitated under this section shall be made in a manner consistent with applicable Federal and State law.

**Sec. 10607. [San Juan River Navajo Irrigation Projects.]**

(a) Rehabilitation.--Subject to subsection (b), the Secretary shall rehabilitate--

(1) the Fruitland-Cambridge Irrigation Project to serve not more than 3,335 acres of land, which shall be considered to be the total serviceable area of the project; and

(2) the Hogback-Cudei Irrigation Project to serve not more than 8,830 acres of land, which shall be considered to be the total serviceable area of the project.

(b) Condition.-- The Secretary shall not commence any construction activity relating to the rehabilitation of the Fruitland-Cambridge Irrigation Project or the Hogback-Cudei Irrigation Project under subsection (a) until the Secretary executes the Agreement.

(c) Operation, Maintenance, and Replacement Obligation.-- The Nation shall continue to be responsible for the operation, maintenance, and replacement of each facility rehabilitated under this section.

**Sec. 10608. [Other Irrigation Projects.]**

(a) In General.-- Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the State of New Mexico (acting through the Interstate Stream Commission) and the Non-Navajo Irrigation Districts that elect to participate, shall-

(1) conduct a study of Non-Navajo Irrigation District diversion and ditch facilities; and

(2) based on the study, identify and prioritize a list of projects, with associated cost estimates, that are recommended to be implemented to repair, rehabilitate, or reconstruct irrigation diversion and ditch facilities to improve water use efficiency.

(b) Grants.-- The Secretary may provide grants to, and enter into cooperative agreements with, the Non-Navajo Irrigation Districts to plan, design, or otherwise implement the projects identified under subsection (a)(2).

(c) Cost-Sharing.--

(1) Federal share.-- The Federal share of the total cost of carrying out a project under subsection (b) shall be not more than 50 percent, and shall be nonreimbursable.

(2) Form.-- The Non-Federal share required under paragraph (1) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under subsection (b).

(3) State contribution.—The Secretary may accept from the State of New Mexico a partial or total contribution toward the non-Federal share for a project carried out under subsection (b).

**Sec. 10609. [Authorization of Appropriations.]**

(a) Authorization of Appropriations for Navajo-Gallup Water Supply Project.--

(1) In general.--There is authorized to be appropriated to the Secretary to plan, design, and construct the Project $870,000,000 for the period of fiscal years 2009 through 2024, to remain available until expended.

(2) Adjustments.--The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2007 in construction costs, as indicated by engineering cost indices applicable to the types of construction involved.

(3) Use.--In addition to the uses authorized under paragraph (1), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(4) Operation and maintenance.--

(A) In general.--There are authorized to be appropriated such sums as are necessary to operate and maintain the Project consistent with this subtitle.

(B) Expiration.--The authorization under subparagraph (A) shall expire 10 years after the year the Secretary declares the Project to be substantially complete.

(b) Appropriations for Conjunctive Use Wells.--

(1) San Juan wells.--There is authorized to be appropriated to the Secretary for the construction or rehabilitation and operation and maintenance of conjunctive use wells under section 10606(b) $30,000,000, as adjusted under paragraph (3), for the period of fiscal years 2009 through 2019.

(2) Wells in the Little Colorado and Rio Grande basins.-- There are authorized to be appropriated to the Secretary for the construction or rehabilitation and operation and maintenance of conjunctive use wells under section 10606(c) such sums as are necessary for the period of fiscal years 2009 through 2024.

(3) Adjustments.--The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2008 in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(4) Nonreimbursable expenditures.--Amounts made available under paragraphs (1) and (2) shall be nonreimbursable to the United States.

(5) Use.--In addition to the uses authorized under paragraphs (1) and (2), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(6) Limitation.--Appropriations authorized under paragraph (1) shall not be used for operation or maintenance of any conjunctive use wells at a time in excess of 3 years after the well is declared substantially complete.

(c) San Juan River Irrigation Projects.--

(1) In general.--There are authorized to be appropriated to the Secretary--

(A) to carry out section 10607(a)(1), not more than $7,700,000, as adjusted under paragraph (2), for the period of fiscal years 2009 through 2016, to remain available until expended; and

(B) to carry out section 10607(a)(2), not more than $15,400,000, as adjusted under paragraph (2), for the period of fiscal years 2009 through 2019, to remain available until expended.

(2) Adjustment.--The amounts made available under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since January 1, 2004, in construction costs, as indicated by engineering cost indices applicable to the types of construction involved in the rehabilitation.

(3) Nonreimbursable expenditures.--Amounts made available under this subsection shall be nonreimbursable to the United States.

(d) Other Irrigation Projects.--There are authorized to be appropriated to the Secretary to carry out section 10608 $11,000,000 for the period of fiscal years 2009 through 2019.

(e) Cultural Resources.--

(1) In general.--The Secretary may use not more than 2 percent of amounts made available under subsections (a), (b), and (c) for the survey, recovery, protection, preservation, and display of archaeological resources in the area of a Project facility or conjunctive use well.

(2) Nonreimbursable expenditures.--Any amounts made available under paragraph (1) shall be nonreimbursable.

(f) Fish and Wildlife Facilities.—

(1) In general.--In association with the development of the Project, the Secretary may use not more than 4 percent of amounts made available under subsections (a), (b), and (c) to purchase land and construct and maintain facilities to mitigate the loss of, and improve conditions for the propagation of, fish and wildlife if any such purchase, construction, or maintenance will not affect the operation of any water project or use of water.

(2) Nonreimbursable expenditures.--Any amounts expended under paragraph (1) shall be nonreimbursable.

**PART IV--NAVAJO NATION WATER RIGHTS**

**Sec. 10701. [Agreement.]**

(a) Agreement Approval.--

(1) Approval by congress.-- Except to the extent that any provision of the Agreement conflicts with this subtitle, Congress approves, ratifies, and confirms the Agreement (including any amendments to the Agreement that are executed to make the Agreement consistent with this subtitle).

(2) Execution by secretary.-- The Secretary shall enter into the Agreement to the extent that the Agreement does not conflict with this subtitle, including--

(A) any exhibits to the Agreement requiring the signature of the Secretary; and

(B) any amendments to the Agreement necessary to make the Agreement consistent with this subtitle.

(3) Authority of secretary.-- The Secretary may carry out any action that the Secretary determines is necessary or appropriate to implement the Agreement, the Contract, and this section.

(4) Administration of Navajo Reservoir releases.-- The State of New Mexico may administer water that has been released from storage in Navajo Reservoir in accordance with subparagraph 9.1 of the Agreement.

(b) Water Available Under Contract.--

(1) Quantities of water available.--

(A) In general.--Water shall be made available annually under the Contract for projects in the State of New Mexico supplied from the Navajo Reservoir and the San Juan River (including tributaries of the River) under New Mexico State Engineer File Numbers 2849, 2883, and 3215 in the quantities described in subparagraph (B).

(B) Water quantities.--The quantities of water referred to in subparagraph (A) are as follows:

| | Diversion (acre-feet/year) | Depletion (acre-feet/) |
|---|---|---|
| Navajo Indian Irrigation Project | 508,000 | 270,000 |
| Navajo-Gallup Water Supply Project | 22,650 | 20,780 |
| Animas-La Plata Project | 4,680 | 2,340 |
| Total | 535,330 | 293,120 |

(C) Maximum quantity.--A diversion of water to the Nation under the Contract for a project described in subparagraph (B) shall not exceed the quantity of water necessary to supply the amount of depletion for the project.

(D) Terms, conditions, and limitations.--The diversion and use of water under the Contract shall be subject to and consistent with the terms, conditions, and limitations of the Agreement, this subtitle, and any other applicable law.

(2) Amendments to contract.--The Secretary, with the consent of the Nation, may amend the Contract if the Secretary determines that the amendment is--

(A) consistent with the Agreement; and
(B) in the interest of conserving water or facilitating beneficial use by the Nation or a subcontractor of the Nation.

(3) Rights of the nation.--The Nation may, under the Contract--

(A) use tail water, wastewater, and return flows attributable to a use of the water by the Nation or a subcontractor of the Nation if--

(i) the depletion of water does not exceed the quantities described in paragraph (1); and

(ii) the use of tail water, wastewater, or return flows is consistent with the terms, conditions, and limitations of the Agreement, and any other applicable law; and

(B) change a point of diversion, change a purpose or place of use, and transfer a right for depletion under this subtitle (except for a point of diversion, purpose or place of use, or right for depletion for use in the State of Arizona under section 10603(b)(2)(D)), to another use, purpose, place, or depletion in the State of New Mexico to meet a water resource or economic need of the Nation if--

(i) the change or transfer is subject to and consistent with the terms of the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Contract, and any other applicable law; and

(ii) a change or transfer of water use by the Nation does not alter any obligation of the United States, the Nation, or another party to pay or repay project construction, operation, maintenance, or replacement costs under this subtitle and the Contract.

(c) Subcontracts.--

(1) In general.--

(A) Subcontracts between nation and third parties.-- The Nation may enter into subcontracts for the delivery of Project water under the Contract to third parties for any beneficial use in the State of New Mexico (on or off land held by the United States in trust for the Nation or a member of the Nation or land held in fee by the Nation).

(B) Approval required.--A subcontract entered into under subparagraph (A) shall not be effective until approved by the Secretary in accordance with this subsection and the Contract.

(C) Submittal.--The Nation shall submit to the Secretary for approval or disapproval any subcontract entered into under this subsection.

(D) Deadline.--The Secretary shall approve or disapprove a subcontract submitted to the Secretary under subparagraph (C) not later than the later of--

(i) the date that is 180 days after the date on which the subcontract is submitted to the Secretary; and

(ii) the date that is 60 days after the date on which a subcontractor complies with--

(I) section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

(II) any other requirement of Federal law.

(E) Enforcement.--A party to a subcontract may enforce the deadline described in subparagraph (D) under section 1361 of title 28, United States Code.

(F) Compliance with other law.--A subcontract described in subparagraph (A) shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, and any other applicable law.

(G) No liability.--The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

(2) Alienation.--

(A) Permanent alienation.--The Nation shall not permanently alienate any right granted to the Nation under the Contract.

(B) Maximum term.--The term of any water use subcontract (including a renewal) under this subsection shall be not more than 99 years.

(3) Nonintercourse act compliance.--This subsection--

(A) provides congressional authorization for the subcontracting rights of the Nation; and

(B) is deemed to fulfill any requirement that may be imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).

(4) Forfeiture.--The nonuse of the water supply secured by a subcontractor of the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(5) No per capita payments.--No part of the revenue from a water use subcontract under this subsection shall be distributed to any member of the Nation on a per capita basis.

(d) Water Leases Not Requiring Subcontracts.--

(1) Authority of nation.--

(A) In general.--The Nation may lease, contract, or otherwise transfer to another party or to another purpose or place of use in the State of New Mexico (on or off land that is held by the United States in trust for the Nation or a member of the Nation or held in fee by the Nation) a water right that--

(i) is decreed to the Nation under the Agreement; and

(ii) is not subject to the Contract.

(B) Compliance with other law.--In carrying out an action under this subsection, the Nation shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Supplemental Partial Final Decree described in paragraph 4.0 of the Agreement, and any other applicable law.

(2) Alienation; maximum term.--

(A) Alienation.--The Nation shall not permanently alienate any right granted to the Nation under the Agreement.

(B) Maximum term.--The term of any water use lease, contract, or other arrangement (including a renewal) under this subsection shall be not more than 99 years.

(3) No liability.--The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

(4) Nonintercourse act compliance.--This subsection--

(A) provides congressional authorization for the lease, contracting, and transfer of any water right described in paragraph (1)(A); and

(B) is deemed to fulfill any requirement that may be imposed by the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177).

(5) Forfeiture.-- The nonuse of a water right of the Nation by a lessee or contractor to the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(e) Nullification.--

(1) Deadlines.--

(A) In general.-- In carrying out this section, the following deadlines apply with respect to implementation of the Agreement:

(i) Agreement.--Not later than December 31, 2010, the Secretary shall execute the Agreement.

(ii) Contract.--Not later than December 31, 2010, the Secretary and the Nation shall execute the Contract.

(iii) Partial final decree.--Not later than December 31, 2013, the court in the stream adjudication shall have entered the Partial Final Decree described in paragraph 3.0 of the Agreement.

(iv) Fruitland-cambridge irrigation project.-- Not later than December 31, 2016, the rehabilitation construction of the Fruitland-Cambridge Irrigation Project authorized under section 10607(a)(1) shall be completed.

(v) Supplemental partial final decree.--Not later than December 31, 2016, the court in the stream adjudication shall enter the Supplemental Partial Final Decree described in subparagraph 4.0 of the Agreement.

(vi) Hogback-cudei irrigation project.--Not later than December 31, 2019, the rehabilitation construction of the Hogback-Cudei Irrigation Project authorized under section 10607(a)(2) shall be completed.

(vii) Trust fund.--Not later than December 31, 2019, the United States shall make all deposits into the Trust Fund under section 10702.

(viii) Conjunctive wells.--Not later than December 31, 2019, the funds authorized to be appropriated under section 10609(b)(1) for the conjunctive use wells authorized under section 10606(b) should be appropriated.

(ix) Navajo-Gallup water supply project.--Not later than December 31, 2024, the construction of all Project facilities shall be completed.

(B) Extension.--A deadline described in subparagraph (A) may be extended if the Nation, the United States (acting through the Secretary), and the State of New Mexico (acting through the New Mexico Interstate Stream Commission) agree that an extension is reasonably necessary.

(2) Revocability of agreement, contract and authorizations.--

(A) Petition.--If the Nation determines that a deadline described in paragraph (1)(A) is not substantially met, the Nation may submit to the court in the stream adjudication a petition to enter an order terminating the Agreement and Contract.

(B) Termination.--On issuance of an order to terminate the Agreement and Contract under subparagraph (A)--

(i) the Trust Fund shall be terminated;

(ii) the balance of the Trust Fund shall be deposited in the general fund of the Treasury;

(iii) the authorizations for construction and rehabilitation of water projects under this subtitle shall be revoked and any Federal activity related to that construction and rehabilitation shall be suspended; and

(iv) this part and parts I and III shall be null and void.

(3) Conditions not causing nullification of settlement.--

(A) In general.--If a condition described in subparagraph (B) occurs, the Agreement and Contract shall not be nullified or terminated.

(B) Conditions.--The conditions referred to in subparagraph (A) are as follows:

(i) A lack of right to divert at the capacities of conjunctive use wells constructed or rehabilitated under section 10606.

(ii) A failure--

(I) to determine or resolve an accounting of the use of water under this subtitle in the State of Arizona;

(II) to obtain a necessary water right for the consumptive use of water in Arizona;

(III) to contract for the delivery of water for use in Arizona; or

(IV) to construct and operate a lateral facility to deliver water to a community of the Nation in Arizona, under the Project.

(f) Effect on Rights of Indian Tribes.--

(1) In general.-- Except as provided in paragraph (2), nothing in the Agreement, the Contract, or this section quantifies or adversely affects the land and water rights, or claims or entitlements to water, of any Indian tribe or community other than the rights, claims, or entitlements of the Nation in, to, and from the San Juan River Basin in the State of New Mexico.

(2) Exception.-- The right of the Nation to use water under water rights the Nation has in other river basins in the State of New Mexico shall be forborne to the extent that the Nation supplies the uses for which the water rights exist by diversions of water from the San Juan River Basin under the Project consistent with subparagraph 9.13 of the Agreement.

**Sec. 10702. [Trust Fund.]**

(a) Establishment.-- There is established in the Treasury a fund to be known as the “Navajo Nation Water Resources Development Trust Fund", consisting of--

(1) such amounts as are appropriated to the Trust Fund under subsection (f); and

(2) any interest earned on investment of amounts in the Trust Fund under subsection (d).

(b) Use of Funds.--The Nation may use amounts in the Trust Fund—

(1) to investigate, construct, operate, maintain, or replace water project facilities, including facilities conveyed to the Nation under this subtitle and facilities owned by the United States for which the Nation is responsible for operation, maintenance, and replacement costs; and

(2) to investigate, implement, or improve a water conservation measure (including a metering or monitoring activity) necessary for the Nation to make use of a water right of the Nation under the Agreement.

(c) Management.--The Secretary shall manage the Trust Fund, invest amounts in the Trust Fund pursuant to subsection (d), and make amounts available from the Trust Fund for distribution to the Nation in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) Investment of the Trust Fund.-- Beginning on October 1, 2019, the Secretary shall invest amounts in the Trust Fund in accordance with--

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(e) Conditions for Expenditures and Withdrawals.--

(1) Tribal management plan.--

(A) In general.-- Subject to paragraph (7), on approval by the Secretary of a tribal management plan in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the Nation may withdraw all or a portion of the amounts in the Trust Fund.

(B) Requirements.--In addition to any requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Nation only use amounts in the Trust Fund for the purposes described in subsection (b), including the identification of water conservation measures to be implemented in association with the agricultural water use of the Nation.

(2) Enforcement.-- The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Trust Fund are used in accordance with this subtitle.

(3) No liability.--Neither the Secretary nor the Secretary of the Treasury shall be liable for the expenditure or investment of any amounts withdrawn from the Trust Fund by the Nation.

(4) Expenditure plan.--

(A) In general.-- The Nation shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Trust Fund made available under this section that the Nation does not withdraw under this subsection.

(B) Description.-- The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Nation remaining in the Trust Fund will be used.

(C) Approval.-- On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this subtitle.

(5) Annual report.-- The Nation shall submit to the Secretary an annual report that describes any expenditures from the Trust Fund during the year covered by the report.

(6) Limitation.-- No portion of the amounts in the Trust Fund shall be distributed to any Nation member on a per capita basis.

(7) Conditions.-- Any amount authorized to be appropriated to the Trust Fund under subsection (f) shall not be available for expenditure or withdrawal--

(A) before December 31, 2019; and

(B) until the date on which the court in the stream adjudication has entered--

(i) the Partial Final Decree; and

(ii) the Supplemental Partial Final Decree.

(f) Authorization of Appropriations.-- There are authorized to be appropriated for deposit in the Trust Fund--

(1) $6,000,000 for each of fiscal years 2010 through 2014; and

(2) $4,000,000 for each of fiscal years 2015 through 2019.

**Sec. 10703. [Waivers and Releases.]**

(a) Claims by the Nation and the United States.-- In return for recognition of the Nation's water rights and other benefits, including but not limited to the commitments by other parties, as set

forth in the Agreement and this subtitle, the Nation, on behalf of itself and members of the Nation (other than members in the capacity of the members as allottees), and the United States acting in its capacity as trustee for the Nation, shall execute a waiver and release of--

(1) all claims for water rights in, or for waters of, the San Juan River Basin in the State of New Mexico that the Nation, or the United States as trustee for the Nation, asserted, or could have asserted, in any proceeding, including but not limited to the stream adjudication, up to and including the effective date described in subsection (e), except to the extent that such rights are recognized in the Agreement or this subtitle;

(2) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion, or taking of water (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking) in the San Juan River Basin in the State of New Mexico that accrued at any time up to and including the effective date described in subsection (e);

(3) all claims of any damage, loss, or injury or for injunctive or other relief because of the condition of or changes in water quality related to, or arising out of, the exercise of water rights; and

(4) all claims against the State of New Mexico, its agencies, or employees relating to the negotiation or the adoption of the Agreement.

(b) Claims by the Nation Against the United States.-- The Nation, on behalf of itself and its members (other than in the capacity of the members as allottees), shall execute a waiver and release of--

(1) all claims against the United States, its agencies, or employees relating to claims for water rights in or waters of the San Juan River Basin in the State of New Mexico that the United States, acting in its capacity as trustee for the Nation, asserted, or could have asserted, in any proceeding, including but not limited to the stream adjudication;

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including but not limited to damages, losses, or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights; claims relating to inference with, diversion, or taking of water or water rights; or claims relating to failure to protect, acquire, replace, or develop water or water rights) in the San Juan River Basin in the State of New Mexico that first accrued at any time up to and including the effective date described in subsection (e);

(3) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Nation's water rights in the stream adjudication; and

(4) all claims against the United States, its agencies, or employees relating to the negotiation, execution, or the adoption of the Agreement, the decrees, the Contract, or this subtitle.

(c) Reservation of Claims.-- Notwithstanding the waivers and releases authorized in this subtitle, the Nation on behalf of itself and its members (including members in the capacity of the members as allottees) and the United States acting in its capacity as trustee for the Nation and allottees, retain--

(1) all claims for water rights or injuries to water rights arising out of activities occurring the San Juan River Basin in the State of New Mexico, subject to paragraphs 8.0, 9.3, 9.12, 9.13, and 13.9 of the Agreement;

(2) all claims for enforcement of the Agreement, the Contract, the Partial Final Decree, the Supplemental Partial Final Decree, or this subtitle, through any legal and equitable remedies available in any court of competent jurisdiction;

(3) all rights to use and protect water rights acquired pursuant to State law after the date of enactment of this Act;

(4) all claims relating to activities affecting the quality of water not related to the exercise of water rights, including but not limited to any claims the Nation might have under--

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(5) all claims relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights; and

(6) all rights, remedies, privileges, immunities, and powers not specifically waived and released under the terms of the Agreement or this subtitle.

(d) Tolling of Claims.--

(1) In general.-- Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the earlier of--

(A) March 1, 2025; or

(B) the effective date described in subsection (e).

(2) Effect of subsection.-- Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) Limitation.-- Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

(e) Effective Date.--

(1) In general.-- The waivers and releases described in subsections (a) and (b) shall be effective on the date on which the Secretary publishes in the Federal Register a statement of findings documenting that each of the deadlines described in section 10701(e)(1) have been met.

(2) Deadline.—I f the deadlines described in section 10701(e)(1)(A) have not been met by the later of March 1, 2025, or the date of any extension under section 10701(e)(1)(B)--

(A) the waivers and releases described in subsections (a) and (b) shall be of no effect; and

(B) section 10701(e)(2)(B) shall apply.

**Sec. 10704. [Water Rights Held in Trust.]** A tribal water right adjudicated and described in paragraph 3.0 of the Partial Final Decree and in paragraph 3.0 of the Supplemental Partial Final Decree shall be held in trust by the United States on behalf of the Nation.

**Subtitle C--Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement**

**Sec. 10801. [Findings.]** Congress finds that--

(1) it is the policy of the United States, in accordance with the trust responsibility of the United States to Indian tribes, to promote Indian self-determination and economic self-sufficiency and to settle Indian water rights claims without lengthy and costly litigation, if practicable;

(2) quantifying rights to water and development of facilities needed to use tribal water supplies is essential to the development of viable Indian reservation economies and the establishment of a permanent reservation homeland;
(3) uncertainty concerning the extent of the Shoshone-Paiute Tribes' water rights has resulted in limited access to water and inadequate financial resources necessary to achieve self-determination and self-sufficiency;
(4) in 2006, the Tribes, the State of Idaho, the affected individual water users, and the United States resolved all tribal claims to water rights in the Snake River Basin Adjudication through a consent decree entered by the District Court of the Fifth Judicial District of the State of Idaho, requiring no further Federal action to quantify the Tribes' water rights in the State of Idaho;
(5) as of the date of enactment of this Act, proceedings to determine the extent and nature of the water rights of the Tribes in the East Fork of the Owyhee River in Nevada are pending before the Nevada State Engineer;
(6) final resolution of the Tribes' water claims in the East Fork of the Owyhee River adjudication will--
(A) take many years;
(B) entail great expense;
(C) continue to limit the access of the Tribes to water, with economic and social consequences;
(D) prolong uncertainty relating to the availability of water supplies; and
(E) seriously impair long-term economic planning and development for all parties to the litigation;
(7) after many years of negotiation, the Tribes, the State, and the upstream water users have entered into a settlement agreement to resolve permanently all water rights of the Tribes in the State; and
(8) the Tribes also seek to resolve certain water-related claims for damages against the United States.
**Sec. 10802. [Purposes.]** The purposes of this subtitle are--
(1) to resolve outstanding issues with respect to the East Fork of the Owyhee River in the State in such a manner as to provide important benefits to--
(A) the United States;
(B) the State;
(C) the Tribes; and
(D) the upstream water users;
(2) to achieve a fair, equitable, and final settlement of all claims of the Tribes, members of the Tribes, and the United States on behalf of the Tribes and members of Tribes to the waters of the East Fork of the Owyhee River in the State;
(3) to ratify and provide for the enforcement of the Agreement among the parties to the litigation;
(4) to resolve the Tribes' water-related claims for damages against the United States;
(5) to require the Secretary to perform all obligations of the Secretary under the Agreement and this subtitle; and
(6) to authorize the actions and appropriations necessary to meet the obligations of the United States under the Agreement and this subtitle.
**Sec. 10803. [Definitions.]** In this subtitle:

(1) Agreement.-- The term “Agreement" means the agreement entitled the “Agreement to Establish the Relative Water Rights of the Shoshone-Paiute Tribes of the Duck Valley Reservation and the Upstream Water Users, East Fork Owyhee River" and signed in counterpart between, on, or about September 22, 2006, and January 15, 2007 (including all attachments to that Agreement).
(2) Development fund.-- The term “Development Fund" means the Shoshone-Paiute Tribes Water Rights Development Fund established by section 10807(b)(1).
(3) East fork of the owyhee river.-- The term “East Fork of the Owyhee River" means the portion of the east fork of the Owyhee River that is located in the State.
(4) Maintenance fund.-- The term “Maintenance Fund" means the Shoshone-Paiute Tribes Operation and Maintenance Fund established by section 10807(c)(1).
(5) Reservation.-- The term “Reservation" means the Duck Valley Reservation established by the Executive order dated April 16, 1877, as adjusted pursuant to the Executive order dated May 4, 1886, and Executive order numbered 1222 and dated July 1, 1910, for use and occupation by the Western Shoshones and the Paddy Cap Band of Paiutes.
(6) Secretary.-- The term “Secretary" means the Secretary of the Interior.
(7) State.-- The term “State" means the State of Nevada.
(8) Tribal water rights.-- The term “tribal water rights" means rights of the Tribes described in the Agreement relating to water, including groundwater, storage water, and surface water.
(9) Tribes.-- The term “Tribes" means the Shoshone-Paiute Tribes of the Duck Valley Reservation.
(10) Upstream water user.-- The term “upstream water user" means a non-Federal water user that--

(A) is located upstream from the Reservation on the East Fork of the Owyhee River; and
(B) is a signatory to the Agreement as a party to the East Fork of the Owyhee River adjudication.

**Sec. 10804. [Approval, Ratification, and Confirmation of Agreement; Authorization.]**
(a) In General.--Except as provided in subsection (c) and except to the extent that the Agreement otherwise conflicts with provisions of this subtitle, the Agreement is approved, ratified, and confirmed.
(b) Secretarial Authorization.-- The Secretary is authorized and directed to execute the Agreement as approved by Congress.
(c) Exception for Tribal Water Marketing.-- Notwithstanding any language in the Agreement to the contrary, nothing in this subtitle authorizes the Tribes to use or authorize others to use tribal water rights off the Reservation, other than use for storage at Wild Horse Reservoir for use on tribal land and for the allocation of 265 acre feet to upstream water users under the Agreement, or use on tribal land off the Reservation.
(d) Environmental Compliance.--Execution of the Agreement by the Secretary under this section shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all environmental compliance required by Federal law in implementing the Agreement.
(e) Performance of Obligations.-- The Secretary and any other head of a Federal agency obligated under the Agreement shall perform actions necessary to carry out an obligation under the Agreement in accordance with this subtitle.

**Sec. 10805. [Tribal Water Rights.]**

(a) In General.--Tribal water rights shall be held in trust by the United States for the benefit of the Tribes.

(b) Administration.--

(1) Enactment of water code.--Not later than 3 years after the date of enactment of this Act, the Tribes, in accordance with provisions of the Tribes' constitution and subject to the approval of the Secretary, shall enact a water code to administer tribal water rights.

(2) Interim administration.--The Secretary shall regulate the tribal water rights during the period beginning on the date of enactment of this Act and ending on the date on which the Tribes enact a water code under paragraph (1).

(c) Tribal Water Rights Not Subject to Loss.--The tribal water rights shall not be subject to loss by abandonment, forfeiture, or nonuse.

**Sec. 10806. [Duck Valley Indian Irrigation Project.]**

(a) Status of the Duck Valley Indian Irrigation Project.-- Nothing in this subtitle shall affect the status of the Duck Valley Indian Irrigation Project under Federal law.

(b) Capital Costs Nonreimbursable.--The capital costs associated with the Duck Valley Indian Irrigation Project as of the date of enactment of this Act, including any capital cost incurred with funds distributed under this subtitle for the Duck Valley Indian Irrigation Project, shall be nonreimbursable.

**Sec. 10807. [Development and Maintenance Funds.]**

(a) Definition of Funds.-- In this section, the term “Funds" means--

(1) the Development Fund; and

(2) the Maintenance Fund.

(b) Development Fund.--

(1) Establishment.-- There is established in the Treasury of the United States a fund to be known as the “Shoshone-Paiute Tribes Water Rights Development Fund".

(2) Use of funds.--

(A) Priority use of funds for rehabilitation.--The Tribes shall use amounts in the Development Fund to--

(i) rehabilitate the Duck Valley Indian Irrigation Project; or

(ii) for other purposes under subparagraph (B), provided that the Tribes have given written notification to the Secretary that--

(I) the Duck Valley Indian Irrigation Project has been rehabilitated to an acceptable condition; or

(II) sufficient funds will remain available from the Development Fund to rehabilitate the Duck Valley Indian Irrigation Project to an acceptable condition after expending funds for other purposes under subparagraph (B).

(B) Other uses of funds.-- Once the Tribes have provided written notification as provided in subparagraph (A)(ii)(I) or (A)(ii)(II), the Tribes may use amounts from the Development Fund for any of the following purposes:

(i) To expand the Duck Valley Indian Irrigation Project.

(ii) To pay or reimburse costs incurred by the Tribes in acquiring land and water rights.

(iii) For purposes of cultural preservation.

(iv) To restore or improve fish or wildlife habitat.

(v) For fish or wildlife production, water resource development, or agricultural development.
(vi) For water resource planning and development.
(vii) To pay the costs of--
(I) designing and constructing water supply and sewer systems for tribal communities, including a water quality testing laboratory;
(II) other appropriate water-related projects and other related economic development projects;
(III) the development of a water code; and
(IV) other costs of implementing the Agreement.

(3) Authorization of appropriations.--There is authorized to be appropriated to the Secretary for deposit in the Development Fund $9,000,000 for each of fiscal years 2010 through 2014.

(c) Maintenance Fund.--

(1) Establishment.-- There is established in the Treasury of the United States a fund to be known as the “Shoshone-Paiute Tribes Operation and Maintenance Fund".

(2) Use of funds.-- The Tribes shall use amounts in the Maintenance Fund to pay or provide reimbursement for--

(A) operation, maintenance, and replacement costs of the Duck Valley Indian Irrigation Project and other water-related projects funded under this subtitle; or

(B) operation, maintenance, and replacement costs of water supply and sewer systems for tribal communities, including the operation and maintenance costs of a water quality testing laboratory.

(3) Authorization of appropriations.-- There is authorized to be appropriated to the Secretary for deposit in the Maintenance Fund $3,000,000 for each of fiscal years 2010 through 2014.

(d) Availability of Amounts from Funds.-- Amounts made available under subsections (b)(3) and (c)(3) shall be available for expenditure or withdrawal only after the effective date described in section 10808(d).

(e) Administration of Funds.-- Upon completion of the actions described in section 10808(d), the Secretary, in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) shall manage the Funds, including by investing amounts from the Funds in accordance with the Act of April 1, 1880 (25 U.S.C. 161), and the first section of the Act of June 24, 1938 (25 U.S.C. 162a).

(f) Expenditures and Withdrawal.--

(1) Tribal management plan.--

(A) In general.--The Tribes may withdraw all or part of amounts in the Funds on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(B) Requirements.--In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribes spend any amounts withdrawn from the Funds in accordance with the purposes described in subsection (b)(2) or (c)(2).

(C) Enforcement.-- The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts

withdrawn from the Funds under the plan are used in accordance with this subtitle and the Agreement.

(D) Liability.-- If the Tribes exercise the right to withdraw amounts from the Funds, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts.

(2) Expenditure plan.--

(A) In general.-- The Tribes shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Funds that the Tribes do not withdraw under the tribal management plan.

(B) Description.-- The expenditure plan shall describe the manner in which, and the purposes for which, amounts of the Tribes remaining in the Funds will be used.

(C) Approval.-- On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this subtitle and the Agreement.

(D) Annual report.-- For each Fund, the Tribes shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(3) Funding agreement.-- Notwithstanding any other provision of this subtitle, on receipt of a request from the Tribes, the Secretary shall include an amount from funds made available under this section in the funding agreement of the Tribes under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), for use in accordance with subsections (b)(2) and (c)(2). No amount made available under this subtitle may be requested until the waivers under section 10808(a) take effect.

(g) No Per Capita Payments.-- No amount from the Funds (including any interest income that would have accrued to the Funds after the effective date) shall be distributed to a member of the Tribes on a per capita basis.

**Sec. 10808. [Tribal Waiver and Release of Claims.]**

(a) Waiver and Release of Claims by Tribes and United States Acting as Trustee for Tribes.--In return for recognition of the Tribes' water rights and other benefits as set forth in the Agreement and this subtitle, the Tribes, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Tribes are authorized to execute a waiver and release of--

(1) all claims for water rights in the State of Nevada that the Tribes, or the United States acting in its capacity as trustee for the Tribes, asserted, or could have asserted, in any proceeding, including pending proceedings before the Nevada State Engineer to determine the extent and nature of the water rights of the Tribes in the East Fork of the Owyhee River in Nevada, up to and including the effective date, except to the extent that such rights are recognized in the Agreement or this subtitle; and

(2) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water rights (including claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water rights) within the State of Nevada that accrued at any time up to and including the effective date.

(b) Waiver and Release of Claims by Tribes Against United States.-- The Tribes, on behalf of themselves and their members, are authorized to execute a waiver and release of--

(1) all claims against the United States, its agencies, or employees, relating in any manner to claims for water rights in or water of the States of Nevada and Idaho that the United States acting in its capacity as trustee for the Tribes asserted, or could have asserted, in any

proceeding, including pending proceedings before the Nevada State Engineer to determine the extent and nature of the water rights of the Tribes in the East Fork of the Owyhee River in Nevada, and the Snake River Basin Adjudication in Idaho;

(2) all claims against the United States, its agencies, or employees relating in any manner to damages, losses, or injuries to water, water rights, land, or other resources due to loss of water or water rights (including damages, losses or injuries to fishing and other similar rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water; or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) within the States of Nevada and Idaho that first accrued at any time up to and including the effective date;

(3) all claims against the United States, its agencies, or employees relating to the operation, maintenance, or rehabilitation of the Duck Valley Indian Irrigation Project that first accrued at any time up to and including the date upon which the Tribes notify the Secretary as provided in section 10807(b)(2)(A)(ii)(I) that the rehabilitation of the Duck Valley Indian Irrigation Project under this subtitle to an acceptable level has been accomplished;

(4) all claims against the United States, its agencies, or employees relating in any manner to the litigation of claims relating to the Tribes' water rights in pending proceedings before the Nevada State Engineer to determine the extent and nature of the water rights of the Tribes in the East Fork of the Owyhee River in Nevada or the Snake River Basin Adjudication in Idaho; and

(5) all claims against the United States, its agencies, or employees relating in any manner to the negotiation, execution, or adoption of the Agreement, exhibits thereto, the decree referred to in subsection (d)(2), or this subtitle.

(c) Reservation of Rights and Retention of Claims.-- Notwithstanding the waivers and releases authorized in this subtitle, the Tribes on their own behalf and the United States acting in its capacity as trustee for the Tribes retain--

(1) all claims for enforcement of the Agreement, the decree referred to in subsection (d)(2), or this subtitle, through such legal and equitable remedies as may be available in the decree court or the appropriate Federal court;

(2) all rights to acquire a water right in a State to the same extent as any other entity in the State, in accordance with State law, and to use and protect water rights acquired after the date of enactment of this Act;

(3) all claims relating to activities affecting the quality of water including any claims the Tribes might have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including claims or damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those Acts; and

(4) all rights, remedies, privileges, immunities, and powers not specifically waived and released pursuant to this subtitle.

(d) Effective Date.-- Notwithstanding anything in the Agreement to the contrary, the waivers by the Tribes, or the United States on behalf of the Tribes, under this section shall take effect on the date on which the Secretary publishes in the Federal Register a statement of findings that includes a finding that--

(1) the Agreement and the waivers and releases authorized and set forth in subsections (a) and (b) have been executed by the parties and the Secretary;

(2) the Fourth Judicial District Court, Elko County, Nevada, has issued a judgment and decree consistent with the Agreement from which no further appeal can be taken; and

(3) the amounts authorized under subsections (b)(3) and (c)(3) of section 10807 have been appropriated.

(e) Failure to Publish Statement of Findings.-- If the Secretary does not publish a statement of findings under subsection (d) by March 31, 2016--

(1) the Agreement and this subtitle shall not take effect; and

(2) any funds that have been appropriated under this subtitle shall immediately revert to the general fund of the United States Treasury.

(f) Tolling of Claims.--

(1) In general.-- Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the date on which the amounts authorized to be appropriated under subsections (b)(3) and (c)(3) of section 10807 are appropriated.

(2) Effect of subparagraph.-- Nothing in this subparagraph revives any claim or tolls any period of limitation or time- based equitable defense that expired before the date of enactment of this Act.

**Sec. 10809. [Miscellaneous.]**

(a) General Disclaimer.-- The parties to the Agreement expressly reserve all rights not specifically granted, recognized, or relinquished by--

(1) the settlement described in the Agreement; or

(2) this subtitle.

(b) Limitation of Claims and Rights.-- Nothing in this subtitle--

(1) establishes a standard for quantifying--

(A) a Federal reserved water right;

(B) an aboriginal claim; or

(C) any other water right claim of an Indian tribe in a judicial or administrative proceeding;

(2) affects the ability of the United States, acting in its sovereign capacity, to take actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act ((42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the “Resource Conservation and Recovery Act of 1976"), and the regulations implementing those Acts;

(3) affects the ability of the United States to take actions, acting in its capacity as trustee for any other Tribe, Pueblo, or allottee;

(4) waives any claim of a member of the Tribes in an individual capacity that does not derive from a right of the Tribes; or

(5) limits the right of a party to the Agreement to litigate any issue not resolved by the Agreement or this subtitle.

(c) Admission Against Interest.-- Nothing in this subtitle constitutes an admission against interest by a party in any legal proceeding.

(d) Reservation.--The Reservation shall be--

(1) considered to be the property of the Tribes; and

(2) permanently held in trust by the United States for the sole use and benefit of the

Tribes.

(e) Jurisdiction.--

(1) Subject matter jurisdiction.-- Nothing in the Agreement or this subtitle restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or tribal court.

(2) Civil or regulatory jurisdiction.-- Nothing in the Agreement or this subtitle impairs or impedes the exercise of any civil or regulatory authority of the United States, the State, or the Tribes.

(3) Consent to jurisdiction.-- The United States consents to jurisdiction in a proper forum for purposes of enforcing the provisions of the Agreement.

(4) Effect of subsection.-- Nothing in this subsection confers jurisdiction on any State court to--

(A) interpret Federal law regarding the health, safety, or the environment or determine the duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of a Federal agency action.

**TITLE XI--UNITED STATES GEOLOGICAL SURVEY AUTHORIZATIONS**

*** * * * ***

**Sec. 11002. [New Mexico Water Resources Study.]**

(a) In General.-- The Secretary of the Interior, acting through the Director of the United States Geological Survey (referred to in this section as the ``Secretary''), in coordination with the State of New Mexico (referred to in this section as the ``State'') and any other entities that the Secretary determines to be appropriate (including other Federal agencies and institutions of higher education), shall, in accordance with this section and any other applicable law, conduct a study of water resources in the State, including--

(1) a survey of groundwater resources, including an analysis of--

(A) aquifers in the State, including the quantity of water in the aquifers;

(B) the availability of groundwater resources for human use;

(C) the salinity of groundwater resources;

(D) the potential of the groundwater resources to recharge;

(E) the interaction between groundwater and surface water;

(F) the susceptibility of the aquifers to contamination; and

(G) any other relevant criteria; and

(2) a characterization of surface and bedrock geology, including the effect of the geology on groundwater yield and quality.

(b) Study Areas.-- The study carried out under subsection (a) shall include the Estancia Basin, Salt Basin, Tularosa Basin, Hueco Basin, and middle Rio Grande Basin in the State.

(c) Report.-- Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the results of the study.

(d) Authorization of Appropriations.--There are authorized to be appropriated such sums as are necessary to carry out this section.

* * * * *

Approved March 30, 2009.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 146:
CONGRESSIONAL RECORD, Vol. 155 (2009):
Mar. 2, 3, considered and passed House.
Mar. 17-19, considered and passed Senate, amended.
Mar. 25, House concurred in Senate amendments, Pg. H3854.
DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2009):
Mar. 30, Presidential remarks and statement.
BUREAU OF RECLAMATION TESTIMONY
Arkansas Valley Conduit; Sept. 21, 2006; March 13 and July 8, 2008
Eastern New Mexico Rural Water Project; Sept. 22, 2004 and May 8, 2008
Santa Margarita River Construction Authorization, June 23, 2004 and April 24, 2008
San Gabriel Basin Restoration Fund, Sept. 25ark, 2007 and April 24, 2008
City of Oxnard Water Recycling and Desalination, Dec. 7, 2005 and April 8, 2008
Elsinore Valley Municipal Water District, May 24, 2207 and April 8, 2008
Rancho California Water District, May 17, 2007 and April 8, 2008
Jackson Gulch Rehabilitation, July 26 and Oct. 24, 2007
Goleta Water Distribution System, Oct. 24, 2007
Tumalo Water Conservation Project, July 12, 2205; April 25 and Oct. 24, 2007
McGee Creek Project Pipeline, Sept. 18, 2007
North Bay Water Reuse Program, May 17 and Aug. 1, 2007
Inland Empire Regional Water Recycling, Aug. 1, 2007
LC River Multi-Species Conservation Program Act, July 24 and July 26, 2007
Northwestern New Mexico Rural Water Projects Act, July 24, 2007
San Joaquin River Restoration Settlement Act, May 3, 2007
Madera Water Supply Enhancement, Sept. 21, 2006.

October 28, 2009

# ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATION ACT, 2010

**[Excerpts from]** An Act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes. (An act of October 28, 2009, Public Law 111-85, 123 Stat. 2845)

## TITLE I
## DEPARTMENT OF DEFENSE—CIVIL DEPARTMENT OF THE ARMY

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

* * * * *

Provided, That $1,500,000 of the funds appropriated under this heading in title I of division C of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 601-609) is transferred to the Investigations account and, in addition to funds appropriated by this Act, applied toward the cost of carrying out the **Seven Oaks Water Conservation Study, California:**

Provided further, That the Chief of Engineers is directed to use $12,594,000 of the funds appropriated herein for the **Dallas Floodway Extension, Texas**, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999:

* * * * *

**general provisions, corps of engineers--civil**

* * * * *

**Sec. 111.** The project for flood control, **Big Sioux River and Skunk Creek, Sioux Falls, South Dakota** authorized by section 101(a)(28) of the Water Resources Development Act of 1996 (Public Law 104-303; 110 Stat. 3666), is modified to authorize the Secretary to construct the project at an estimated total cost of $53,500,000, with an estimated Federal cost of $37,700,000 and an estimated non-Federal cost of $15,800,000.

**Sec. 112.** Section 595(h) of Public Law 106-53 (113 Stat. 384), as amended by section 5067 of Public Law 110-114 (121 Stat. 1219), is further amended by--

(1) striking the phrase "$25,000,000 for each of **Montana and New Mexico''** and inserting the following language in lieu thereof: "$75,000,000 for Montana, $25,000,000 for New Mexico"; and

(2) striking "$50,000,000" and inserting "$100,000,000" in lieu thereof.

* * * * *

**Sec. 118.** The flood control project for **West Sacramento, California,** authorized by section 101(4), Water Resources Development Act, 1992, Public Law 102-580; Energy and Water Development Appropriations Act, 1999, Public Law 105-245, is modified to authorize the Secretary of Army, acting through the Chief of Engineers, to construct the project at a total cost of $53,040,000 with an estimated first Federal cost of $38,355,000 and an estimated non-Federal first cost of $14,685,000.

* * * * *

**Sec. 124**. The Secretary of the Army is authorized to carry out the project for storm damage reduction, **Kahuku, Oahu, Hawaii**, at a total cost of $6,700,000, with an estimated Federal cost of $4,360,000 and an estimated non-Federal cost of $2,340,000.

**Sec. 125**. The Secretary of the Army is authorized to acquire 24 parcels of land consisting of approximately 235 acres located within Township 21 South, Range 28 East, Sections 25, 26, 27, 34, 35 and 36, and Township 22 South, Range 28 East, Section 3 in Tulare County, for the **Dam Safety Seismic Remediation project at Success Dam on the Tule River in the State of California**, authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 901); Provided, That the lands shall be available for use in connection with any activity carried out at the Success Dam and Reservoir.

* * * * *

**TITLE II**

**DEPARTMENT OF THE INTERIOR**

**Central Utah Project; Central Utah project completion account**-- For carrying out activities authorized by the Central Utah Project Completion Act, $40,300,000, to remain available until expended, of which $1,500,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission. In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,704,000, to remain available until expended. For fiscal year 2010, the Commission may use an amount not to exceed $1,500,000 for administrative expenses.

**Bureau of Reclamation--** The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

**water and related resources; (including transfers of funds)**-- For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, $951,158,000, to remain available until expended, of which $48,740,000 shall be available for transfer to the Upper Colorado River Basin Fund and $17,256,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706:

Provided, That such transfers may be increased or decreased within the overall appropriation under this heading:

Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account:

Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed:

Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading:

Provided further, That $3,500,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106-554:

Provided further, That $5,000,000 of the funds appropriated under this heading shall be available for the “Power Program Services" to implement the Bureau of Reclamation's hydropower facilities installations identified under section 1834 of the Energy Policy Act of 2005:

Provided further, That the funds provided herein for the St. Mary Storage Unit facilities, Milk River Project, Montana, shall be used on a nonreimbursible basis: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a nonreimbursable basis.

**Central Valley Project Restoration Fund**-- For carrying out the programs, projects, plans, habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $35,358,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), and 3405(f) of Public Law 102-575, to remain available until expended:

Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575:

Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

**California Bay-Delta Restoration; (including transfers of funds)--** For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, $40,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes:

Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior:

Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

**Policy and Administration**-- For necessary expenses of policy, administration, and related functions in the Office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $61,200,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377:

Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

**Administrative Provision--** Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed seven passenger motor vehicles, which are for replacement only.

**General Provisions--Department of the Interior**

**Sec. 201**. (a) None of the funds provided in title II of this Act for Water and Related Resources, or provided by previous appropriations Acts to the agencies or entities funded in title II of this

Act for Water and Related Resources that remain available for obligation or expenditure in fiscal year 2010, shall be available for obligation or expenditure through a reprogramming of funds that--

(1) initiates or creates a new program, project, or activity;
(2) eliminates a program, project, or activity;
(3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;
(4) restarts or resumes any program, project or activity for which funds are not provided in this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;
(5) transfers funds in excess of the following limits, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate:

(A) 15 percent for any program, project or activity for which $2,000,000 or more is available at the beginning of the fiscal year; or
(B) $300,000 for any program, project or activity for which less than $2,000,000 is available at the beginning of the fiscal year;

(6) transfers more than $500,000 from either the Facilities Operation, Maintenance, and Rehabilitation category or the Resources Management and Development category to any program, project, or activity in the other category, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate; or
(7) transfers, where necessary to discharge legal obligations of the Bureau of Reclamation, more than $5,000,000 to provide adequate funds for settled contractor claims, increased contractor earnings due to accelerated rates of operations, and real estate deficiency judgments, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

(b) Subsection (a)(5) shall not apply to any transfer of funds within the Facilities Operation, Maintenance, and Rehabilitation category.
(c) For purposes of this section, the term “transfer" means any movement of funds into or out of a program, project, or activity.
(d) The Bureau of Reclamation shall submit reports on a quarterly basis to the Committees on Appropriations of the House of Representatives and the Senate detailing all the funds reprogrammed between programs, projects, activities, or categories of funding. The first quarterly report shall be submitted not later than 60 days after the date of enactment of this Act.

**Sec. 202.**

(a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.
(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as

reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan" and the “SJVDP-Alternative Repayment Plan" described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

**Sec. 203.** None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

**Sec. 204.** Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation.

**Sec. 205.** Section 9 of the Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106-382; 114 Stat. 1457) is amended by striking “over a period of 10 fiscal years" each place it appears in subsections (a)(1) and (b) and inserting “through fiscal year 2015".

**Sec. 206.** Section 208(a) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268), is amended--

(1) in paragraph (1)--

(A) by redesignating clauses (i) through (iv) of subparagraph (B) as subclauses (I) through (IV), respectively, and indenting the subclauses appropriately;

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the clauses appropriately;

(C) by striking “(a)(1) Using" and inserting the following:

“(a) Action by Secretary.--

“(1) Provision of funds.--

“(A) In general.-- Using";

(D) in subparagraph (A) (as so redesignated)—

(i) in the matter preceding clause (i) (as so redesignated),by inserting “or the National Fish and Wildlife Foundation" after “University of Nevada";

(ii) in clause (ii)(IV) (as so redesignated), by striking the period at the end and inserting “; and"; and

(iii) by adding at the end the following:

“(iii) to design and implement conservation and stewardship measures to address impacts from activities carried out--

“(I) under clause (i); and

“(II) in conjunction with willing landowners."; and

(E) by adding at the end the following:

“(B) National fish and wildlife foundation.--

“`(i) Date of provision.-- The Secretary shall provide funds to the National Fish and Wildlife Foundation pursuant to subparagraph (A) in an advance payment of the available amount--

"(I) on the date of enactment of the Energy and Water Development and Related Agencies Appropriations Act, 2010; or

"(II) as soon as practicable after that date of enactment.

"(ii) Requirements.--

"(I) In general.-- Except as provided in subclause (II), the funds provided under clause (i) shall be subject to the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), in accordance with section 10(b)(1) of that Act (16 U.S.C. 3709(b)(1).

"(II) Exceptions.--Sections 4(e) and 10(b)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e), 3709(b)(2)), and the provision of subsection (c)(2) of section 4 of that Act (16 U.S.C. 3703) relating to subsection (e) of that section, shall not apply to the funds provided under clause (i)."; and

(2) in paragraph (2)--

(A) in the matter preceding subparagraph (A), by striking "paragraph (1)(A)" and all that follows through "beneficial to--" and inserting "paragraph (1)(A)(i), the University of Nevada or the National Fish and Wildlife Foundation shall make acquisitions that the University or the Foundation determines to be the most beneficial to--"; and

(B) in subparagraph (A), by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)(ii)".

**Sec. 207.** Section 2507(b) of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171) is amended--

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) for efforts consistent with researching, supporting, and conserving fish, wildlife, plant, and habitat resources in the Walker River Basin.".

**Sec. 208.**

(a) Of the amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall--

(1) provide, subject to subsection (b), $66,200,000 to establish the Walker Basin Restoration Program for the primary purpose of restoring and maintaining Walker Lake, a natural desert terminal lake in the State of Nevada, consistent with protection of the ecological health of the Walker River and the riparian and watershed resources of the West, East, and Main Walker Rivers; and

(2) allocate--

(A) acting through a nonprofit conservation organization that is acting in consultation with the Truckee Meadows Water Authority, $2,000,000, to remain available until expended, for--

(i) the acquisition of land surrounding Independence Lake; and

(ii) protection of the native fishery and water quality of Independence Lake, as determined by the nonprofit conservation organization;

(B) $5,000,000 to provide grants of equal amounts to the State of Nevada, the State of California, the Truckee Meadows Water Authority, the Pyramid Lake Paiute Tribe, and the Federal Watermaster of the Truckee River to implement the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Public Law 101-618; 104 Stat. 3294);
(C) $1,500,000, to be divided equally by the city of Fernley, Nevada, and the Pyramid Lake Paiute Tribe, for joint planning and development activities for water, wastewater, and sewer facilities;
(D) $1,000,000 to the United States Geological Survey to design and implement, in consultation and cooperation with other Federal departments and agencies, State and tribal governments, and other water management and conservation organizations, a water monitoring program for the Walker River Basin; and
(E) $45,000,000 to implement the 1996 Truckee River Water Quality Settlement Agreement by acquiring water rights for the benefit of the Truckee River and Pyramid Lake.

(b)

(1) The amount made available under subsection (a)(1) shall be—

(A) used, consistent with the primary purpose set forth in subsection (a)(1), to support efforts to preserve Walker Lake while protecting agricultural, environmental, and habitat interests in the Walker River Basin; and

(B) allocated as follows:

(i) $25,000,000 to the Walker River Irrigation District, acting in accordance with an agreement between that District and the National Fish and Wildlife Foundation--

(I) to administer and manage a 3-year water leasing demonstration program in the Walker River Basin to increase Walker Lake inflows; and

(II) for use in obtaining information regarding the establishment, budget, and scope of a longer-term leasing program.

(ii) $25,000,000 to advance the acquisition of water and related interests from willing sellers authorized by section 208(a)(1)(A)(i) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268).
(iii) $1,000,000 for activities relating to the exercise of acquired option agreements and implementation of the water leasing demonstration program, including but not limited to the pursuit of change applications, approvals, and agreements pertaining to the exercise of water rights and leases acquired under the program.
(iv) $10,000,000 for associated conservation and stewardship activities, including water conservation and management, watershed planning, land stewardship, habitat restoration, and the establishment of a local, nonprofit entity to hold and exercise water rights acquired by, and to achieve the purposes of, the Walker Basin Restoration Program.
(v) $5,000,000 to the University of Nevada, Reno, and the Desert Research Institute-

(I) for additional research to supplement the water rights research conducted under section 208(a)(1)(A)(ii) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268);

(II) to conduct an annual evaluation of the results of the activities carried out under clauses (i) and (ii); and

(III) to support and provide information to the programs described in this subparagraph and related acquisition and stewardship initiatives to preserve Walker Lake and protect agricultural, environmental, and habitat interests in the Walker River Basin.

(vi) $200,000 to support alternative crops and alternative agricultural cooperatives programs in Lyon and Mineral Counties, Nevada, that promote water conservation in the Walker River Basin.

(2)(A) The amount made available under subsection (a)(1) shall be provided to the National Fish and Wildlife Foundation--

(i) in an advance payment of the entire amount--

(I) on the date of enactment of this Act; or

(II) as soon as practicable after that date of enactment; and

(ii) except as provided in subparagraph (B), subject to the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), in accordance with section 10(b)(1) of that Act (16 U.S.C. 3709(b)(1)).

(B) Sections 4(e) and 10(b)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e), 3709(b)(2)), and the provision of subsection (c)(2) of section 4 of that Act (16 U.S.C. 3703) relating to subsection (e) of that section, shall not apply to the amount made available under subsection (a)(1).

**Sec. 209.** Notwithstanding the provisions of section 11(c) of Public Law 89-108, as amended by section 9 of Public Law 99-294, the Commissioner is directed to modify the April 9, 2002, Grant Agreement Between Bureau of Reclamation and North Dakota Natural Resources Trust to provide funding for the Trust to continue its investment program/Agreement No. 02FG601633 to authorize the North Dakota Natural Resources Trust Board of Directors to expend all or any portion of the funding allocation received pursuant to section 11(a)(2)(B) of the Dakota Water Resources Act of 2000 for the purpose of operations of the Natural Resource Trust whether such amounts are principal or received as investment income:

Provided, That operational expenses that may be funded from the principal allocation shall not exceed 105 percent of the previous fiscal year's operating costs:

Provided further, That the Commissioner of Reclamation is authorized to include in such modified agreement with the Trust authorized under this section appropriate provisions regarding the repayment of any funds that constitute principal from the Trust Funds.

**Sec. 210.** Title I of Public Law 108-361 is amended by striking “2010" wherever it appears and inserting “2014" in lieu thereof.

**Sec. 211.**

(a) Section 3405(a)(1)(M) of Public Law 102-575 (106 Stat. 4709) is amended by striking “countries" and inserting “counties".

(b) A transfer of water between a Friant Division contractor and a south-of-Delta CVP agricultural water service contractor, approved during a two-year period beginning on the date of enactment of this Act shall, be deemed to meet the conditions set forth in subparagraphs (A) and (I) of section 3405(a)(1) of Public Law 102-575 (106 Stat. 4709) if the transfer under this clause-

(1) does not interfere with the San Joaquin River Restoration Settlement Act (part I of subtitle A of title X of Public Law 111-11; 123 Stat. 1349) (including the priorities

described in section 10004(a)(4)(B) of that Act relating to implementation of paragraph 16 of the Settlement), and the Settlement (as defined in section 10003 of that Act); and
(2) is completed by September 30, 2012.

(c) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall revise, finalize, and implement the applicable draft recovery plan for the Giant Garter Snake (Thamnophis gigas).

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Approved October 28, 2009.

**Explanatory Remarks**

**LEGISLATIVE HISTORY**--H.R. 3183:
House Report: No. 111-203, Comm. on Appropriations, July 13, 2009.
No. 111-278, Comm. of Conference, Sept. 30, 2009.
CONGRESSIONAL RECORD, Vol. 155 (2009):
July 17, considered and passed House.
July 29, considered and passed Senate, amended, Pg. S8609.
Oct. 1, House agreed to conference report, Pg. H10424.
Oct.15, Senate considered and agreed to conference report.
BUREAU OF RECLAMATION TESTIMONY
June 18, 2009, Senate Comm. on Appropriations.