

1 **TITLE _____**

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4 **SEC. ____01. OPERATIONS AND REVIEWS.**

5 (a) WATER SUPPLIES.—The Secretary of the Interior
6 and Secretary of Commerce shall provide the maximum
7 quantity of water supplies practicable to Central Valley
8 Project agricultural, municipal and industrial contractors,
9 water service or repayment contractors, water rights set-
10 tlement contractors, exchange contractors, refuge contrac-
11 tors, and State Water Project contractors, by approving,
12 in accordance with applicable Federal and State laws (in-
13 cluding regulations), operations or temporary projects to
14 provide additional water supplies as quickly as possible,
15 based on available information.

1 (b) ADMINISTRATION.—In carrying out subsection
2 (a), the Secretary of the Interior and Secretary of Com-
3 merce shall, consistent with applicable laws (including reg-
4 ulations)—

5 (1)(A) in close coordination with the California
6 Department of Water Resources and the California
7 Department of Fish and Wildlife, implement a pilot
8 project to test and evaluate the ability to operate the
9 Delta cross-channel gates daily or as otherwise may
10 be appropriate to keep them open to the greatest ex-
11 tent practicable to protect out-migrating salmonids,
12 manage salinities in the interior Delta and any other
13 water quality issues, and maximize Central Valley
14 Project and State Water Project pumping, subject to
15 the condition that the pilot project shall be designed
16 and implemented consistent with operational criteria
17 and monitoring criteria required by the California
18 State Water Resources Control Board; and

19 (B) design, implement, and evaluate such real-
20 time monitoring capabilities to enable effective real-
21 time operations of the cross channel in order effi-
22 ciently to meet the objectives described in subpara-
23 graph (A);

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

4 (A) species listed as threatened or endan-
5 gered under the Endangered Species Act of
6 1973 (16 U.S.C. 1531 et seq.);

7 (B) water quality; and

8 (C) water supply benefits;

9 (3) collaborate with the California Department
10 of Water Resources to install a deflection barrier at
11 Georgiana Slough and the Delta Cross Channel Gate
12 to protect migrating salmonids, consistent with
13 knowledge gained from activities carried out during
14 2014 and 2015;

15 (4) upon completion of the pilot project in para-
16 graph (1), submit to the Senate Committees on En-
17 ergy and Natural Resources and Environment and
18 Public Works and the House Committee on Natural
19 Resources a written notice and explanation on the
20 extent to which the gates are able to remain open
21 and the pilot project achieves all the goals set forth
22 in paragraphs (1) through (3);

23 (5) implement turbidity control strategies that
24 may allow for increased water deliveries while avoid-

1 ing jeopardy to adult Delta smelt (*Hypomesus*
2 transpacificus);

3 (6) in a timely manner, evaluate any proposal
4 to increase flow in the San Joaquin River through
5 a voluntary sale, transfer, or exchange of water from
6 an agency with rights to divert water from the San
7 Joaquin River or its tributaries;

8 (7) adopt a 1:1 inflow to export ratio for the in-
9 crement of increased flow, as measured as a 3-day
10 running average at Vernalis during the period from
11 April 1 through May 31, that results from the vol-
12 untary sale, transfer, or exchange, unless the Sec-
13 retary of the Interior and Secretary of Commerce
14 determine in writing that a 1:1 inflow-to-export ratio
15 for that increment of increased flow will cause addi-
16 tional adverse effects on listed salmonid species be-
17 yond the range of the effects anticipated to occur to
18 the listed salmonid species for the duration of the
19 salmonid biological opinion using the best scientific
20 and commercial data available; and subject to the
21 condition that any individual sale, transfer, or ex-
22 change using a 1:1 inflow to export ratio adopted
23 under the authority of this section may only proceed
24 if—

1 (A) the Secretary of the Interior deter-
2 mines that the environmental effects of the pro-
3 posed sale, transfer, or exchange are consistent
4 with effects permitted under applicable law (in-
5 cluding the Endangered Species Act of 1973
6 (16 U.S.C. 1531 et seq.), the Federal Water
7 Pollution Control Act (33 U.S.C. 1381 et seq.),
8 and the Porter-Cologne Water Quality Control
9 Act (California Water Code 13000 et seq.);

10 (B) Delta conditions are suitable to allow
11 movement of the acquired, transferred, or ex-
12 changed water through the Delta consistent
13 with existing Central Valley Project and State
14 Water Project permitted water rights and the
15 requirements of subsection (a)(1)(H) of the
16 Central Valley Project Improvement Act; and

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

22 (8)(A) issue all necessary permit decisions dur-
23 ing emergency consultation under the authority of
24 the Secretary of the Interior and Secretary of Com-
25 merce not later than 60 days after receiving a com-

1 pleted application by the State to place and use tem-
2 porary barriers or operable gates in Delta channels
3 to improve water quantity and quality for State
4 Water Project and Central Valley Project south-of-
5 Delta water contractors and other water users,
6 which barriers or gates shall provide benefits for
7 species protection and in-Delta water user water
8 quality, provided that they are designed so that, if
9 practicable, formal consultations under section 7 of
10 the Endangered Species Act of 1973 (16 U.S.C.
11 1536) are not necessary; and

12 (B) take longer to issue the permit decisions in
13 subparagraph (A) only if the Secretary determines
14 in writing that an Environmental Impact Statement
15 is needed for the proposal to comply with the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.);

18 (9) allow and facilitate, consistent with existing
19 priorities, water transfers through the C.W. “Bill”
20 Jones Pumping Plant or the Harvey O. Banks
21 Pumping Plant from April 1 to November 30;

22 (10) require the Director of the United States
23 Fish and Wildlife Service and the Commissioner of
24 Reclamation to—

1 (A) determine if a written transfer pro-
2 posal is complete within 30 days after the date
3 of submission of the proposal. If the contracting
4 district or agency or the Secretary determines
5 that the proposal is incomplete, the district or
6 agency or the Secretary shall state with speci-
7 ficity what must be added to or revised for the
8 proposal to be complete;

9 (B) complete all requirements under the
10 National Environmental Policy Act of 1969 (42
11 U.S.C. 4321 et seq.) and the Endangered Spe-
12 cies Act of 1973 (16 U.S.C. et seq.) necessary
13 to make final permit decisions on water transfer
14 requests in the State, not later than 45 days
15 after receiving a completed request;

16 (C) take longer to issue the permit deci-
17 sions in subparagraph (B) only if the Secretary
18 determines in writing that an Environmental
19 Impact Statement is needed for the proposal to
20 comply with the National Environmental Policy
21 Act of 1969 (42 U.S.C. et seq.), or that the ap-
22 plication is incomplete pursuant to subpara-
23 graph (A); and

24 (D) approve any water transfer request de-
25 scribed in subparagraph (A) to maximize the

1 quantity of water supplies on the condition that
2 actions associated with the water transfer are
3 consistent with—

4 (i) existing Central Valley Project and
5 State Water Project permitted water rights
6 and the requirements of section
7 3405(a)(1)(H) of the Central Valley
8 Project Improvement Act; and

9 (ii) all other applicable laws and regu-
10 lations;

11 (11) in coordination with the Secretary of Agri-
12 culture, enter into an agreement with the National
13 Academy of Sciences to conduct a comprehensive
14 study, to be completed not later than 1 year after
15 the date of enactment of this title, on the effective-
16 ness and environmental impacts of salt cedar biologi-
17 cal control efforts on increasing water supplies and
18 improving riparian habitats of the Colorado River
19 and its principal tributaries, in the State of Cali-
20 fornia and elsewhere;

21 (12) pursuant to the research and adaptive
22 management procedures of the smelt biological opin-
23 ion and the salmonid biological opinion use all avail-
24 able scientific tools to identify any changes to the
25 real-time operations of Bureau of Reclamation,

1 State, and local water projects that could result in
2 the availability of additional water supplies; and

3 (13) determine whether alternative operational
4 or other management measures would meet applica-
5 ble regulatory requirements for listed species while
6 maximizing water supplies and water supply reli-
7 ability; and

8 (14) continue to vary the averaging period of
9 the Delta Export/Inflow ratio, to the extent con-
10 sistent with any applicable State Water Resources
11 Control Board orders under decision D-1641, to op-
12 erate to a

13 (A) ratio using a 3-day averaging period
14 on the rising limb of a Delta inflow hydrograph;
15 and

16 (B) 14-day averaging period on the falling
17 limb of the Delta inflow hydrograph.

18 (c) OTHER AGENCIES.—To the extent that a Federal
19 agency other than the Department of the Interior and the
20 Department of Commerce has a role in approving projects
21 described in subsections (a) and (b), this section shall
22 apply to the Federal agency.

23 (d) ACCELERATED PROJECT DECISION AND ELE-
24 VATION.—

1 (1) IN GENERAL.—On request of the Governor
2 of California, the Secretary of the Interior and Sec-
3 retary of Commerce shall use the expedited proce-
4 dures under this subsection to make final decisions
5 relating to Federal or federally approved projects or
6 operational changes proposed pursuant to sub-
7 sections (a) and (b) to provide additional water sup-
8 plies or otherwise address emergency drought condi-
9 tions.

10 (2) REQUEST FOR RESOLUTION.—Not later
11 than 7 days after receiving a request of the Gov-
12 ernor of California, the Secretaries referred to in
13 paragraph (1), or the head of another Federal agen-
14 cy responsible for carrying out a review of a project,
15 as applicable, the Secretary of the Interior shall con-
16 vene a final project decision meeting with the heads
17 of all relevant Federal agencies to decide whether to
18 approve a project to provide emergency water sup-
19 plies or otherwise address emergency drought condi-
20 tion.

21 (3) NOTIFICATION.—Upon receipt of a request
22 for a meeting under this subsection, the Secretary of
23 the Interior shall notify the heads of all relevant
24 Federal agencies of the request, including a descrip-

1 tion of the project to be reviewed and the date for
2 the meeting.

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

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

12 (3) LIMITATION.—The expedited procedures
13 under this subsection apply only to—

14 (A) proposed new Federal projects or oper-
15 ational changes pursuant to subsection (a) or
16 (b); and

17 (B) the extent they are consistent with ap-
18 plicable laws (including regulations).

19 (e) OPERATIONS PLAN.—The Secretaries of Com-
20 merce and the Interior, in consultation with appropriate
21 State officials, shall develop an operations plan that is
22 consistent with the provisions of this title and other appli-
23 cable Federal and State laws, including provisions that are
24 intended to provide additional water supplies that could
25 be of assistance during the current drought.

1 **SEC. ____02. SCIENTIFICALLY SUPPORTED IMPLEMENTA-**
2 **TION OF OMR FLOW REQUIREMENTS.**

3 (a) IN GENERAL.—In implementing the provisions of
4 the smelt biological opinion and the salmonid biological
5 opinion, the Secretary of the Interior and the Secretary
6 of Commerce shall manage reverse flow in Old and Middle
7 Rivers at the most negative reverse flow rate allowed
8 under the applicable biological opinion to maximize water
9 supplies for the Central Valley Project and the State
10 Water Project, unless that management of reverse flow in
11 Old and Middle Rivers to maximize water supplies would
12 cause additional adverse effects on the listed fish species
13 beyond the range of effects anticipated to occur to the list-
14 ed fish species for the duration of the applicable biological
15 opinion, or would be inconsistent with applicable State law
16 requirements, including water quality, salinity control, and
17 compliance with State Water Resources Control Board
18 Order D–1641 or a successor order.

19 (b) REQUIREMENTS.—If the Secretary of the Interior
20 or Secretary of Commerce determines to manage rates of
21 pumping at the C.W. “Bill” Jones and the Harvey O.
22 Banks pumping plants in the southern Delta to achieve
23 a reverse OMR flow rate less negative than the most nega-
24 tive reverse flow rate prescribed by the applicable biologi-
25 cal opinion, the Secretary shall—

1 (1) document in writing any significant facts
2 regarding real-time conditions relevant to the deter-
3 minations of OMR reverse flow rates, including—

4 (A) targeted real-time fish monitoring in
5 the Old River pursuant to this section, includ-
6 ing as it pertains to the smelt biological opinion
7 monitoring of delta smelt in the vicinity of Sta-
8 tion 902;

9 (B) near-term forecasts with available sal-
10 vage models under prevailing conditions of the
11 effects on the listed species of OMR flow at the
12 most negative reverse flow rate prescribed by
13 the biological opinion; and

14 (C) any requirements under applicable
15 State law; and

16 (2) explain in writing why any decision to man-
17 age OMR reverse flow at rates less negative than the
18 most negative reverse flow rate prescribed by the bi-
19 ological opinion is necessary to avoid additional ad-
20 verse effects on the listed fish species beyond the
21 range of effects anticipated to occur to the listed fish
22 species for the duration of the applicable biological
23 opinion, after considering relevant factors such as—

24 (A) the distribution of the listed species
25 throughout the Delta;

1 (B) the potential effects of high entrain-
2 ment risk on subsequent species abundance;

3 (C) the water temperature;

4 (D) other significant factors relevant to
5 the determination, as required by applicable
6 Federal or State laws;

7 (E) turbidity; and

8 (F) whether any alternative measures
9 could have a substantially lesser water supply
10 impact.

11 (c) LEVEL OF DETAIL REQUIRED.—The analyses
12 and documentation required by this section shall be com-
13 parable to the depth and complexity as is appropriate for
14 real time decision-making. This section shall not be inter-
15 preted to require a level of administrative findings and
16 documentation that could impede the execution of effective
17 real time adaptive management.

18 (d) FIRST SEDIMENT FLUSH.—During the first flush
19 of sediment out of the Delta in each water year, and pro-
20 vided that such determination is based upon objective evi-
21 dence, notwithstanding subsection (a), the Secretary of
22 the Interior shall manage OMR flow pursuant to the provi-
23 sions of the smelt biological opinion that protects adult
24 Delta smelt from the first flush if required to do so by
25 the smelt biological opinion.

1 (e) CONSTRUCTION.—The Secretary of the Interior
2 and the Secretary of Commerce are authorized to imple-
3 ment subsection (a) consistent with the results of moni-
4 toring through Early Warning Surveys to make real time
5 operational decisions consistent with the current applica-
6 ble biological opinion.

7 (f) CALCULATION OF REVERSE FLOW IN OMR.—
8 Within 180 days of the enactment of this title, the Sec-
9 retary of the Interior is directed, in consultation with the
10 California Department of Water Resources, and consistent
11 with the smelt biological opinion and the salmonid biologi-
12 cal opinion, to review, modify, and implement, if appro-
13 priate, the method used to calculate reverse flow in Old
14 and Middle Rivers, for implementation of the reasonable
15 and prudent alternatives in the smelt biological opinion
16 and the salmonid biological opinion, and any succeeding
17 biological opinions.

18 **SEC. ___ 03. TEMPORARY OPERATIONAL FLEXIBILITY FOR**
19 **STORM EVENTS.**

20 (a) IN GENERAL.—

21 (1) Nothing in this title authorizes additional
22 adverse effects on listed species beyond the range of
23 the effects anticipated to occur to the listed species
24 for the duration of the smelt biological opinion or

1 salmonid biological opinion, using the best scientific
2 and commercial data available.

3 (2) When consistent with the environmental
4 protection mandate in paragraph (1) while maxi-
5 mizing water supplies for Central Valley Project and
6 State Water Project contractors, the Secretary of
7 the Interior and the Secretary of Commerce,
8 through an operations plan, shall evaluate and may
9 authorize the Central Valley Project and the State
10 Water Project, combined, to operate at levels that
11 result in OMR flows more negative than the most
12 negative reverse flow rate prescribed by the applica-
13 ble biological opinion (based on United States Geo-
14 logical Survey gauges on Old and Middle Rivers)
15 daily average as described in subsections (b) and (c)
16 to capture peak flows during storm-related events.

17 (b) FACTORS TO BE CONSIDERED.—In determining
18 additional adverse effects on any listed fish species beyond
19 the range of effects anticipated to occur to the listed fish
20 species for the duration of the smelt biological opinion or
21 salmonid biological opinion, using the best scientific and
22 commercial data available, the Secretaries of the Interior
23 and Commerce may consider factors including:

1 (1) The degree to which the Delta outflow index
2 indicates a higher level of flow available for diver-
3 sion.

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

6 (3) The real-time distribution of listed species.

7 (c) OTHER ENVIRONMENTAL PROTECTIONS.—

8 (1) STATE LAW.—The actions of the Secretary
9 of the Interior and the Secretary of Commerce under
10 this section shall be consistent with applicable regu-
11 latory requirements under State law.

12 (2) FIRST SEDIMENT FLUSH.—During the first
13 flush of sediment out of the Delta in each water
14 year, and provided that such determination is based
15 upon objective evidence, the Secretary of the Interior
16 shall manage OMR flow pursuant to the portion of
17 the smelt biological opinion that protects adult Delta
18 smelt from the first flush if required to do so by the
19 smelt biological opinion.

20 (3) APPLICABILITY OF OPINION.—This section
21 shall not affect the application of the salmonid bio-
22 logical opinion from April 1 to May 31, unless the
23 Secretary of Commerce finds that some or all of
24 such applicable requirements may be adjusted dur-
25 ing this time period to provide emergency water sup-

1 ply relief without resulting in additional adverse ef-
2 fects on listed salmonid species beyond the range of
3 the effects anticipated to occur to the listed
4 salmonid species for the duration of the salmonid bi-
5 ological opinion using the best scientific and com-
6 mercial data available. In addition to any other ac-
7 tions to benefit water supply, the Secretary of the
8 Interior and the Secretary of Commerce shall con-
9 sider allowing through-Delta water transfers to
10 occur during this period if they can be accomplished
11 consistent with section 3405(a)(1)(H) of the Central
12 Valley Project Improvement Act and other applicable
13 law. Water transfers solely or exclusively through
14 the State Water Project are not required to be con-
15 sistent with subsection (a)(1)(H) of the Central Val-
16 ley Project Improvement Act.

17 (4) MONITORING.—During operations under
18 this section, the Commissioner of Reclamation, in
19 coordination with the Fish and Wildlife Service, Na-
20 tional Marine Fisheries Service, and California De-
21 partment of Fish and Wildlife, shall undertake ex-
22 panded monitoring programs and other data gath-
23 ering to improve the efficiency of operations for list-
24 ed species protections and Central Valley Project
25 and State Water Project water supply to ensure inci-

1 dental take levels are not exceeded, and to identify
2 potential negative impacts, if any.

3 (d) EFFECT OF HIGH OUTFLOWS.—When exercising
4 their authorities to capture peak flows pursuant to sub-
5 section (c), the Secretary of the Interior and the Secretary
6 of Commerce shall not count such days toward the 5-day
7 and 14-day running averages of tidally filtered daily Old
8 and Middle River flow requirements under the smelt bio-
9 logical opinion and salmonid biological opinion, unless
10 doing so is required to avoid additional adverse effects on
11 listed fish species beyond those anticipated to occur
12 through implementation of the smelt biological opinion
13 and salmonid biological opinion using the best scientific
14 and commercial data available.

15 (e) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—
16 In articulating the determinations required under this sec-
17 tion, the Secretary of the Interior and the Secretary of
18 Commerce shall fully satisfy the requirements herein but
19 shall not be expected to provide a greater level of sup-
20 porting detail for the analysis than feasible to provide
21 within the short timeframe permitted for timely real-time
22 decisionmaking in response to changing conditions in the
23 Delta.

1 **SEC. ____04. CONSULTATION ON COORDINATED OPER-**
2 **ATIONS.**

3 (a) RESOLUTION OF WATER RESOURCE ISSUES.—In
4 furtherance of the policy established by section 2(c)(2) of
5 the Endangered Species Act of 1973, that Federal agen-
6 cies shall cooperate with State and local agencies to re-
7 solve water resource issues in concert with conservation
8 of endangered species, in any consultation or reconsulta-
9 tion on the coordinated operations of the Central Valley
10 Project and the State Water Project, the Secretaries of
11 the Interior and Commerce shall ensure that any public
12 water agency that contracts for the delivery of water from
13 the Central Valley Project or the State Water Project that
14 so requests shall—

15 (1) have routine and continuing opportunities
16 to discuss and submit information to the action
17 agency for consideration during the development of
18 any biological assessment;

19 (2) be informed by the action agency of the
20 schedule for preparation of a biological assessment;

21 (3) be informed by the consulting agency, the
22 U.S. Fish and Wildlife Service or the National Ma-
23 rine Fisheries Service, of the schedule for prepara-
24 tion of the biological opinion at such time as the bio-
25 logical assessment is submitted to the consulting
26 agency by the action agency;

1 (4) receive a copy of any draft biological opin-
2 ion and have the opportunity to review that docu-
3 ment and provide comment to the consulting agency
4 through the action agency, which comments will be
5 afforded due consideration during the consultation;

6 (5) have the opportunity to confer with the ac-
7 tion agency and applicant, if any, about reasonable
8 and prudent alternatives prior to the action agency
9 or applicant identifying one or more reasonable and
10 prudent alternatives for consideration by the con-
11 sulting agency; and

12 (6) where the consulting agency suggests a rea-
13 sonable and prudent alternative be informed—

14 (A) how each component of the alternative
15 will contribute to avoiding jeopardy or adverse
16 modification of critical habitat and the scientific
17 data or information that supports each compo-
18 nent of the alternative; and

19 (B) why other proposed alternative actions
20 that would have fewer adverse water supply and
21 economic impacts are inadequate to avoid jeop-
22 ardly or adverse modification of critical habitat.

23 (b) INPUT.—When consultation is ongoing, the Secre-
24 taries of the Interior and Commerce shall regularly solicit
25 input from and report their progress to the Collaborative

1 Adaptive Management Team and the Collaborative
2 Science and Adaptive Management Program policy group.
3 The Collaborative Adaptive Management Team and the
4 Collaborative Science and Adaptive Management Program
5 policy group may provide the Secretaries with rec-
6 ommendations to improve the effects analysis and Federal
7 agency determinations. The Secretaries shall give due con-
8 sideration to the recommendations when developing the
9 Biological Assessment and Biological Opinion.

10 (c) MEETINGS.—The Secretaries shall establish a
11 quarterly stakeholder meeting during any consultation or
12 reconsultation for the purpose of providing updates on the
13 development of the Biological Assessment and Biological
14 Opinion. The quarterly stakeholder meeting shall be open
15 to stakeholders identified by the Secretaries representing
16 a broad range of interests including environmental, rec-
17 reational and commercial fishing, agricultural, municipal,
18 Delta, and other regional interests, and including stake-
19 holders that are not state or local agencies.

20 (d) CLARIFICATION.—Neither subsection (b) or (c) of
21 this section may be used to meet the requirements of sub-
22 section (a).

23 (e) NON-APPLICABILITY OF FACA.—For the pur-
24 poses of subsection (b), the Collaborative Adaptive Man-
25 agement Team, the Collaborative Science and Adaptive

1 Management Program policy group, and any recommenda-
2 tions made to the Secretaries, are exempt from the Fed-
3 eral Advisory Committee Act.

4 **SEC. ___ 05. PROTECTIONS.**

5 (a) APPLICABILITY.—This section shall apply only to
6 sections __ 01 through __ 06.

7 (b) OFFSET FOR STATE WATER PROJECT.—

8 (1) IMPLEMENTATION IMPACTS.—The Sec-
9 retary of the Interior shall confer with the California
10 Department of Fish and Wildlife in connection with
11 the implementation of the applicable provisions of
12 this title on potential impacts to any consistency de-
13 termination for operations of the State Water
14 Project issued pursuant to California Fish and
15 Game Code section 2080.1.

16 (2) ADDITIONAL YIELD.—If, as a result of the
17 application of the applicable provisions of this title,
18 the California Department of Fish and Wildlife—

19 (A) determines that operations of the State
20 Water Project are inconsistent with the consist-
21 ency determinations issued pursuant to Cali-
22 fornia Fish and Game Code section 2080.1 for
23 operations of the State Water Project; or

1 (B) requires take authorization under Cali-
2 fornia Fish and Game Code section 2081 for
3 operation of the State Water Project;
4 in a manner that directly or indirectly results in re-
5 duced water supply to the State Water Project as
6 compared with the water supply available under the
7 smelt biological opinion and the salmonid biological
8 opinion; and as a result, Central Valley Project yield
9 is greater than it otherwise would have been, then
10 that additional yield shall be made available to the
11 State Water Project for delivery to State Water
12 Project contractors to offset that reduced water sup-
13 ply, provided that if it is necessary to reduce water
14 supplies for any Central Valley Project authorized
15 uses or contractors to make available to the State
16 Water Project that additional yield, such reductions
17 shall be applied proportionately to those uses or con-
18 tractors that benefit from that increased yield.

19 (3) NOTIFICATION RELATED TO ENVIRON-
20 MENTAL PROTECTIONS.—The Secretary of the Inte-
21 rior and Secretary of Commerce shall—

22 (A) notify the Director of the California
23 Department of Fish and Wildlife regarding any
24 changes in the manner in which the smelt bio-

1 logical opinion or the salmonid biological opin-
2 ion is implemented; and

3 (B) confirm that those changes are con-
4 sistent with the Endangered Species Act of
5 1973 (16 U.S.C. 1531 et seq.).

6 (4) SAVINGS.—Nothing in the applicable provi-
7 sions of this title shall have any effect on the appli-
8 cation of the California Endangered Species Act
9 (California Fish and Game Code sections through
10 2116).

11 (c) AREA OF ORIGIN AND WATER RIGHTS PROTEC-
12 TIONS.—

13 (1) IN GENERAL.—The Secretary of the Inte-
14 rior and the Secretary of Commerce, in carrying out
15 the mandates of the applicable provisions of this
16 title, shall take no action that—

17 (A) diminishes, impairs, or otherwise af-
18 fects in any manner any area of origin, water-
19 shed of origin, county of origin, or any other
20 water rights protection, including rights to
21 water appropriated before December 19, 1914,
22 provided under State law;

23 (B) limits, expands or otherwise affects the
24 application of section 10505, 10505.5, 11128,
25 11460, 11461, 11462, 11463 or 12200 through

1 12220 of the California Water Code or any
2 other provision of State water rights law, with-
3 out respect to whether such a provision is spe-
4 cifically referred to in this section; or

5 (C) diminishes, impairs, or otherwise af-
6 fects in any manner any water rights or water
7 rights priorities under applicable law.

8 (2) EFFECT OF ACT.—

9 (A) Nothing in the applicable provisions of
10 this title affects or modifies any obligation of
11 the Secretary of the Interior under section 8 of
12 the Act of June 17, 1902 (32 Stat. 390, chap-
13 ter 1093).

14 (B) Nothing in the applicable provisions of
15 this title diminishes, impairs, or otherwise af-
16 fects in any manner any Project purposes or
17 priorities for the allocation, delivery or use of
18 water under applicable law, including the
19 Project purposes and priorities established
20 under section 3402 and section 3406 of the
21 Central Valley Project Improvement Act (Public
22 Law 102–575; 106 Stat. 4706).

23 (d) NO REDIRECTED ADVERSE IMPACTS.—

24 (1) IN GENERAL.—The Secretary of the Inte-
25 rior and Secretary of Commerce shall not carry out

1 any specific action authorized under the applicable
2 provisions of this title that would directly or through
3 State agency action indirectly result in the involun-
4 tary reduction of water supply to an individual, dis-
5 trict, or agency that has in effect a contract for
6 water with the State Water Project or the Central
7 Valley Project, including Settlement and Exchange
8 contracts, refuge contracts, and Friant Division con-
9 tracts, as compared to the water supply that would
10 be provided in the absence of action under this title,
11 and nothing in this section is intended to modify,
12 amend or affect any of the rights and obligations of
13 the parties to such contracts.

14 (2) ACTION ON DETERMINATION.—If, after ex-
15 ploring all options, the Secretary of the Interior or
16 the Secretary of Commerce makes a final determina-
17 tion that a proposed action under the applicable pro-
18 visions of this title cannot be carried out in accord-
19 ance with paragraph (1), that Secretary—

20 (A) shall document that determination in
21 writing for that action, including a statement of
22 the facts relied on, and an explanation of the
23 basis, for the decision; and

1 (B) is subject to applicable law, including
2 the Endangered Species Act of 1973 (16 U.S.C.
3 1531 et seq.).

4 (e) ALLOCATIONS FOR SACRAMENTO VALLEY WATER
5 SERVICE CONTRACTORS.—

6 (1) DEFINITIONS.—In this subsection:

7 (A) EXISTING CENTRAL VALLEY PROJECT
8 AGRICULTURAL WATER SERVICE CONTRACTOR
9 WITHIN THE SACRAMENTO RIVER WATER-
10 SHED.—The term “existing Central Valley
11 Project agricultural water service contractor
12 within the Sacramento River Watershed”
13 means any water service contractor within the
14 Shasta, Trinity, or Sacramento River division of
15 the Central Valley Project that has in effect a
16 water service contract on the date of enactment
17 of this title that provides water for irrigation.

18 (B) YEAR TERMS.—The terms “Above
19 Normal”, “Below Normal”, “Dry”, and “Wet”,
20 with respect to a year, have the meanings given
21 those terms in the Sacramento Valley Water
22 Year Type (40–30–30) Index.

23 (2) ALLOCATIONS OF WATER.—

24 (A) ALLOCATIONS.—Subject to paragraph
25 (3), the Secretary of the Interior shall make

1 every reasonable effort in the operation of the
2 Central Valley Project to allocate water pro-
3 vided for irrigation purposes to each existing
4 Central Valley Project agricultural water service
5 contractor within the Sacramento River Water-
6 shed in accordance with the following:

7 (i) Not less than 100 percent of the
8 contract quantity of the existing Central
9 Valley Project agricultural water service
10 contractor within the Sacramento River
11 Watershed in a “Wet” year.

12 (ii) Not less than 100 percent of the
13 contract quantity of the existing Central
14 Valley Project agricultural water service
15 Contractor within the Sacramento River
16 Watershed in an “Above Normal” year.

17 (iii) Not less than 100 percent of the
18 contract quantity of the existing Central
19 Valley Project agricultural water service
20 contractor within the Sacramento River
21 Watershed in a “Below Normal” year that
22 is preceded by an “Above Normal” or
23 “Wet” year.

24 (iv) Not less than 50 percent of the
25 contract quantity of the existing Central

1 Valley Project agricultural water service
2 contractor within the Sacramento River
3 Watershed in a “Dry” year that is pre-
4 ceded by a “Below Normal”, “Above Nor-
5 mal”, or “Wet” year.

6 (v) In any other year not identified in
7 any of clauses (i) through (iv), not less
8 than twice the allocation percentage to
9 south-of-Delta Central Valley Project agri-
10 cultural water service contractors, up to
11 100 percent.

12 (B) EFFECT OF CLAUSE.—In the event of
13 anomalous circumstances, nothing in clause
14 (A)(v) precludes an allocation to an existing
15 Central Valley Project agricultural water service
16 contractor within the Sacramento River Water-
17 shed that is greater than twice the allocation
18 percentage to a south-of-Delta Central Valley
19 Project agricultural water service contractor.

20 (3) PROTECTION OF ENVIRONMENT, MUNICIPAL
21 AND INDUSTRIAL SUPPLIES, AND OTHER CONTRAC-
22 TORS.—

23 (A) ENVIRONMENT.—Nothing in para-
24 graph (2) shall adversely affect any protections
25 for the environment, including—

1 (i) the obligation of the Secretary of
2 the Interior to make water available to
3 managed wetlands pursuant to section
4 3406(d) of the Central Valley Project Im-
5 provement Act (Public Law 102–575; 106
6 Stat. 4722); or

7 (ii) any obligation—

8 (I) of the Secretary of the Inte-
9 rior and the Secretary of Commerce
10 under the smelt biological opinion, the
11 salmonid biological opinion, or any
12 other applicable biological opinion; in-
13 cluding the Shasta Dam cold water
14 pool requirements as set forth in the
15 salmonid biological opinion or any
16 other applicable State or Federal law
17 (including regulations); or

18 (II) under the Endangered Spe-
19 cies Act of 1973 (16 U.S.C. et seq.),
20 the Central Valley Project Improve-
21 ment Act (Public Law 102–575; 106
22 Stat. 4706), or any other applicable
23 State or Federal law (including regu-
24 lations).

1 (B) MUNICIPAL AND INDUSTRIAL SUP-
2 PLIES.—Nothing in paragraph (2) shall—

3 (i) modify any provision of a water
4 Service contract that addresses municipal
5 or industrial water shortage policies of the
6 Secretary of the Interior and the Secretary
7 of Commerce;

8 (ii) affect or limit the authority of the
9 Secretary of the Interior and the Secretary
10 of Commerce to adopt or modify municipal
11 and industrial water shortage policies;

12 (iii) affect or limit the authority of the
13 Secretary of the Interior and the Secretary
14 of Commerce to implement a municipal or
15 industrial water shortage policy;

16 (iv) constrain, govern, or affect, di-
17 rectly or indirectly, the operations of the
18 American River division of the Central Val-
19 ley Project or any deliveries from that divi-
20 sion or a unit or facility of that division;
21 or

22 (v) affects any allocation to a Central
23 Valley Project municipal or industrial
24 water service contractor by increasing or
25 decreasing allocations to the contractor, as

1 compared to the allocation the contractor
2 would have received absent paragraph (2).

3 (C) OTHER CONTRACTORS.—Nothing in
4 paragraph (2) shall—

5 (i) affect the priority of any individual
6 or entity with a Sacramento River settle-
7 ment contract over water service or repay-
8 ment contractors;

9 (ii) affect the obligation of the United
10 States to make a substitute supply of
11 water available to the San Joaquin River
12 exchange contractors;

13 (iii) affect the allocation of water to
14 Friant division contractors of the Central
15 Valley Project;

16 (iv) result in the involuntary reduction
17 in contract water allocations to individuals
18 or entities with contracts to receive water
19 from the Friant division;

20 (v) result in the involuntary reduction
21 in water allocations to refuge contractors;
22 or

23 (vi) authorize any actions inconsistent
24 with State water rights law.

1 **SEC. ___06. NEW MELONES RESERVOIR.**

2 The Commissioner is directed to work with local
3 water and irrigation districts in the Stanislaus River
4 Basin to ascertain the water storage made available by
5 the Draft Plan of Operations in New Melones Reservoir
6 (DRPO) for water conservation programs, conjunctive use
7 projects, water transfers, rescheduled project water and
8 other projects to maximize water storage and ensure the
9 beneficial use of the water resources in the Stanislaus
10 River Basin. All such programs and projects shall be im-
11 plemented according to all applicable laws and regulations.
12 The source of water for any such storage program at New
13 Melones Reservoir shall be made available under a valid
14 water right, consistent with the State water transfer
15 guidelines and any other applicable State water law. The
16 Commissioner shall inform the Congress within 18 months
17 setting forth the amount of storage made available by the
18 DRPO that has been put to use under this program, in-
19 cluding proposals received by the Commissioner from in-
20 terested parties for the purpose of this section.

21 **SEC. ___07. STORAGE.**

22 (a) DEFINITIONS.—In this title:

23 (1) FEDERALLY OWNED STORAGE PROJECT.—

24 The term “federally owned storage project” means
25 any project involving a surface water storage facility
26 in a Reclamation State—

1 (A) to which the United States holds title;
2 and

3 (B) that was authorized to be constructed,
4 operated, and maintained pursuant to the re-
5 clamation laws.

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

9 (A) involves a groundwater or surface
10 water storage facility constructed, operated, and
11 maintained by any State, department of a
12 State, subdivision of a State, or public agency
13 organized pursuant to State law; and

14 (B) provides a benefit in meeting any obli-
15 gation under Federal law (including regula-
16 tions).

17 (b) FEDERALLY OWNED STORAGE PROJECTS.—

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

1 (2) FEDERAL COST SHARE.—Subject to the re-
2 quirements of this subsection, the Secretary of the
3 Interior may participate in a federally owned storage
4 project in an amount equal to not more than 50 per-
5 cent of the total cost of the federally owned storage
6 project.

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

11 (A) determines that the proposed federally
12 owned storage project is feasible in accordance
13 with the reclamation laws;

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

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

24 (4) ENVIRONMENTAL LAWS.—In participating
25 in a federally owned storage project under this sub-

1 section, the Secretary of the Interior shall comply
2 with all applicable environmental laws, including the
3 National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.).

5 (c) STATE-LED STORAGE PROJECTS.—

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

11 (2) REQUEST BY GOVERNOR.—Participation by
12 the Secretary of the Interior in a State-led storage
13 project under this subsection shall not occur un-
14 less—

15 (A) the participation has been requested by
16 the Governor of the State in which the State-
17 led storage project is located;

18 (B) the State or local sponsor determines,
19 and the Secretary of the Interior concurs,
20 that—

21 (i) the State-led storage project is
22 technically and financially feasible and pro-
23 vides a federal benefit in accordance with
24 the reclamation laws;

1 (ii) sufficient non-Federal funding is
2 available to complete the State-led storage
3 project; and

4 (iii) the State-led storage project
5 sponsors are financially solvent;

6 (C) the Secretary of the Interior deter-
7 mines that, in return for the Federal cost-share
8 investment in the State-led storage project, at
9 least a proportional share of the project benefits
10 are the Federal benefits, including water sup-
11 plies dedicated to specific purposes such as en-
12 vironmental enhancement and wildlife refuges;
13 and

14 (D) the Secretary of the Interior submits
15 to Congress a written notification of these de-
16 terminations within 30 days of making such de-
17 terminations.

18 (3) ENVIRONMENTAL LAWS.—When partici-
19 pating in a State-led storage project under this sub-
20 section, the Secretary shall comply with all applica-
21 ble environmental laws, including the National Envi-
22 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.).

1 (4) INFORMATION.—When participating in a
2 State-led storage project under this subsection, the
3 Secretary of the Interior—

4 (A) may rely on reports prepared by the
5 sponsor of the State-led storage project, includ-
6 ing feasibility (or equivalent) studies, environ-
7 mental analyses, and other pertinent reports
8 and analyses; but

9 (B) shall retain responsibility for making
10 the independent determinations described in
11 paragraph (2).

12 (d) AUTHORITY TO PROVIDE ASSISTANCE.—The
13 Secretary of the Interior may provide financial assistance
14 under this title to carry out projects within any Reclama-
15 tion State.

16 (e) RIGHTS TO USE CAPACITY.—Subject to compli-
17 ance with State water rights laws, the right to use the
18 capacity of a federally owned storage project or State-led
19 storage project for which the Secretary of the Interior has
20 entered into an agreement under this subsection shall be
21 allocated in such manner as may be mutually agreed to
22 by the Secretary of the Interior and each other party to
23 the agreement.

24 (f) COMPLIANCE WITH CALIFORNIA WATER
25 BOND.—

1 (1) IN GENERAL.—The provision of Federal
2 funding for construction of a State-led storage
3 project in the State of California shall be subject to
4 the condition that the California Water Commission
5 shall determine that the State-led storage project is
6 consistent with the California Water Quality, Sup-
7 ply, and Infrastructure Improvement Act, approved
8 by California voters on November 4, 2014.

9 (2) APPLICABILITY.—This subsection expires
10 on the date on which State bond funds available
11 under the Act referred to in paragraph (1) are ex-
12 pended.

13 (g) PARTNERSHIP AND AGREEMENTS.—The Sec-
14 retary of the Interior, acting through the Commissioner,
15 may partner or enter into an agreement regarding the
16 water storage projects identified in section 103(d)(1) of
17 the Water Supply, Reliability, and Environmental Im-
18 provement Act (Public Law 108–361; 118 Stat. 1688)
19 with local joint powers authorities formed pursuant to
20 State law by irrigation districts and other local water dis-
21 tricts and local governments within the applicable hydro-
22 logic region, to advance those projects.

23 (h) AUTHORIZATION OF APPROPRIATIONS.—

24 (1) \$335,000,000 of funding in section __11(e)
25 is authorized to remain available until expended.

1 Public Law 108–361 (118 Stat. 1684), the Bureau of Rec-
2 lamation destroys or otherwise adversely affects any exist-
3 ing marina, recreational facility, or other water-dependent
4 business when constructing or operating a new or modified
5 water storage project, the Secretaries of the Interior and
6 Agriculture, acting through the Bureau and the Forest
7 Service shall—

8 (1) provide compensation otherwise required by
9 law; and

10 (2) provide the owner of the affected marina,
11 recreational facility, or other water-dependent busi-
12 ness under mutually agreeable terms and conditions
13 with the right of first refusal to construct and oper-
14 ate a replacement marina, recreational facility, or
15 other water-dependent business, as the case may be,
16 on United States land associated with the new or
17 modified water storage project.

18 (b) HYDROELECTRIC PROJECTS.—If in constructing
19 any new or modified water storage project included in sec-
20 tion 103(d)(1)(A) of Public Law 108-361 (118 Stat.
21 1684), the Bureau of Reclamation reduces or eliminates
22 the capacity or generation of any existing non-Federal hy-
23 droelectric project by inundation or otherwise, the Sec-
24 retary of the Interior shall, subject to the requirements
25 and limitations of this section—

1 (1) provide compensation otherwise required by
2 law;

3 (2) provide the owner of the affected hydro-
4 electric project under mutually agreeable terms and
5 conditions with a right of first refusal to construct,
6 operate, and maintain replacement hydroelectric
7 generating facilities at such new or modified water
8 storage project on Federal land associated with the
9 new or modified water storage project or on private
10 land owned by the affected hydroelectric project
11 owner;

12 (3) provide compensation for the construction
13 of any water conveyance facilities as are necessary to
14 convey water to any new powerhouse constructed by
15 such owner in association with such new hydro-
16 electric generating facilities;

17 (4) provide for paragraphs (1), (2), and (3) at
18 a cost not to exceed the estimated value of the ac-
19 tual impacts to any existing non-Federal hydro-
20 electric project, including impacts to its capacity and
21 energy value, and as estimated for the associated
22 feasibility study, including additional planning, envi-
23 ronmental, design, construction, and operations and
24 maintenance costs for existing and replacement fa-
25 cilities; and

1 (5) ensure that action taken under paragraphs
2 (1), (2), (3), and (4) shall not directly or indirectly
3 increase the costs to recipients of power marketed by
4 the Western Area Power Administration, nor de-
5 crease the value of such power.

6 (c) EXISTING LICENSEE.—The owner of any project
7 affected under subsection (b)(2) shall be deemed the exist-
8 ing licensee, in accordance with section 15(a) of the Act
9 of June 10, 1920 (16 U.S.C. 808(a)), for any replacement
10 project to be constructed within the proximate geographic
11 area of the affected project.

12 (d) COST ALLOCATION.—

13 (1) COMPENSATION.—Any compensation under
14 this section shall be a project cost allocated solely to
15 the direct beneficiaries of the new or modified water
16 project constructed under this section.

17 (2) REPLACEMENT COSTS.—The costs of the
18 replacement project, and any compensation, shall
19 be—

20 (A) treated as a stand-alone project and
21 shall not be financially integrated in any other
22 project; and

23 (B) allocated in accordance with mutually
24 agreeable terms between the Secretary and
25 project beneficiaries.

1 (e) APPLICABILITY.—This section shall only apply to
2 federally owned water storage projects whether authorized
3 under section ____ 8 or some other authority.

4 (f) LIMITATION.—Nothing in this section affects the
5 ability of landowners or Indian tribes to seek compensa-
6 tion or any other remedy otherwise provided by law.

7 (g) SAVINGS CLAUSE.—No action taken under this
8 section shall directly or indirectly increase the costs to re-
9 cipients of power marketed by the Western Area Power
10 Administration, nor decrease the value of such power.

11 **SEC. ____ 09. OTHER WATER SUPPLY PROJECTS.**

12 (a) WATER DESALINATION ACT AMENDMENTS.—
13 Section 4 of the Water Desalination Act of 1996 (42
14 U.S.C. 10301 note; Public Law 104–298) is amended—

15 (1) in subsection (a)—

16 (A) by redesignating paragraphs (2) and
17 (3) as paragraphs (3) and (4), respectively; and

18 (B) by inserting after paragraph (1) the
19 following:

20 “(1) PROJECTS.—

21 “(A) IN GENERAL.—Subject to the re-
22 quirements of this subsection, the Secretary of
23 the Interior may participate in an eligible de-
24 salination project in an amount equal to not

1 more than 25 percent of the total cost of the
2 eligible desalination project.

3 “(B) ELIGIBLE DESALINATION PROJECT.—
4 The term ‘eligible desalination project’ means
5 any project in a Reclamation State, that—

6 “(i) involves an ocean or brackish
7 water desalination facility constructed, op-
8 erated and maintained by any State, de-
9 partment of a State, subdivision of a State
10 or public agency organized pursuant to a
11 State law; and

12 “(ii) provides a Federal benefit in ac-
13 cordance with the reclamation laws (includ-
14 ing regulations)

15 “(C) STATE ROLE.—Participation by the
16 Secretary of the Interior in an eligible desalina-
17 tion project under this subsection shall not
18 occur unless—

19 “(i) the project is included in a state-
20 approved plan or federal participation has
21 been requested by the Governor of the
22 State in which the eligible desalination
23 project is located; and

1 “(ii) the State or local sponsor deter-
2 mines, and the Secretary of the Interior
3 concurs, that—

4 “(I) the eligible desalination
5 project is technically and financially
6 feasible and provides a Federal benefit
7 in accordance with the reclamation
8 laws;

9 “(II) sufficient non-Federal fund-
10 ing is available to complete the eligible
11 desalination project; and

12 “(III) the eligible desalination
13 project sponsors are financially sol-
14 vent; and

15 “(iii) the Secretary of the Interior
16 submits to Congress a written notification
17 of these determinations within 30 days of
18 making such determinations.

19 “(D) ENVIRONMENTAL LAWS.—When par-
20 ticipating in an eligible desalination project
21 under this subsection, the Secretary shall com-
22 ply with all applicable environmental laws, in-
23 cluding the National Environmental Policy Act
24 of 1969 (42 U.S.C. 4321 et seq.).

1 “(E) INFORMATION.—When participating
2 in an eligible desalination project under this
3 subsection, the Secretary of the Interior—

4 “(i) may rely on reports prepared by
5 the sponsor of the eligible desalination
6 project, including feasibility (or equivalent)
7 studies, environmental analyses, and other
8 pertinent reports and analyses; but

9 “(ii) shall retain responsibility for
10 making the independent determinations de-
11 scribed in subparagraph (C).

12 “(F) AUTHORIZATION OF APPROPRIA-
13 TIONS.—

14 “(i) \$30,000,000 of funding is author-
15 ized to remain available until expended;
16 and

17 “(ii) Projects can only receive funding
18 if enacted appropriations legislation des-
19 ignates funding to them by name, after the
20 Secretary recommends specific projects for
21 funding pursuant to this subsection and
22 transmits such recommendations to the ap-
23 propriate committees of Congress.”.

24 (c) AUTHORIZATION OF NEW WATER RECYCLING
25 AND REUSE PROJECTS.—Section 1602 of the Reclamation

1 Wastewater and Groundwater Study and Facilities Act
2 (title XVI of Public Law 102–575; 43 U.S.C. 390h et.
3 seq.) is amended by adding at the end the following new
4 subsections:

5 “(e) AUTHORIZATION OF NEW WATER RECYCLING
6 AND REUSE PROJECTS.—

7 “(1) SUBMISSION TO THE SECRETARY.—

8 “(A) IN GENERAL.—Non-Federal interests
9 may submit proposals for projects eligible to be
10 authorized pursuant to this section in the form
11 of completed feasibility studies to the Secretary.

12 “(B) ELIGIBLE PROJECTS.—A project
13 shall be considered eligible for consideration
14 under this section if the project reclaims and
15 reuses—

16 “(i) municipal, industrial, domestic, or
17 agricultural wastewater; or

18 “(ii) impaired ground or surface wa-
19 ters.

20 “(C) GUIDELINES.—Within 60 days of the
21 enactment of this Act the Secretary shall issue
22 guidelines for feasibility studies for water recy-
23 cling and reuse projects to provide sufficient in-
24 formation for the formulation of the studies.

1 “(2) REVIEW BY THE SECRETARY.—The Sec-
2 retary shall review each feasibility study received
3 under paragraph (1)(A) for the purpose of—

4 “(A) determining whether the study and,
5 and the process under which the study was de-
6 veloped, each comply with Federal laws and
7 regulations applicable to feasibility studies of
8 water recycling and reuse projects; and

9 “(B) the project is technically and finan-
10 cially feasible and provides a Federal benefit in
11 accordance with the reclamation laws.

12 “(3) SUBMISSION TO CONGRESS.—Not later
13 than 180 days after the date of receipt of a feasi-
14 bility study received under paragraph (1)(A), the
15 Secretary shall submit to the Committee on Energy
16 and Natural Resources of the Senate and the Com-
17 mittee on Natural Resources of the House of Rep-
18 resentatives a report that describes—

19 “(A) the results of the Secretary’s review
20 of the study under paragraph (2), including a
21 determination of whether the project is feasible;

22 “(B) any recommendations the Secretary
23 may have concerning the plan or design of the
24 project; and

1 “(C) any conditions the Secretary may re-
2 quire for construction of the project.

3 “(4) ELIGIBILITY FOR FUNDING.—The non-
4 Federal project sponsor of any project determined by
5 the Secretary to be feasible under paragraph (3)(A)
6 shall be eligible to apply to the Secretary for funding
7 for the Federal share of the costs of planning, de-
8 signing and constructing the project pursuant to
9 subsection (f).

10 “(f) COMPETITIVE GRANT PROGRAM FOR THE FUND-
11 ING OF WATER RECYCLING AND REUSE PROJECTS.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-
13 tablish a competitive grant program under which the
14 non-Federal project sponsor of any project deter-
15 mined by the Secretary to be feasible under sub-
16 section (e)(3)(A) shall be eligible to apply for fund-
17 ing for the planning, design, and construction of the
18 project, subject to subsection (g)(2).

19 “(2) PRIORITY.—When funding projects under
20 paragraph (1), the Secretary shall give funding pri-
21 ority to projects that meet one or more of the cri-
22 teria listed in paragraph (3) and are located in an
23 area that—

24 “(A) has been identified by the United
25 States Drought Monitor as experiencing severe,

1 extreme, or exceptional drought and any time in
2 the 4-year period before such funds are made
3 available; or

4 “(B) was designated as a disaster area by
5 a State during the 4-year period before such
6 funds are made available.

7 “(3) CRITERIA.—The project criteria referred
8 to in paragraph (2) are the following:

9 “(A) Projects that are likely to provide a
10 more reliable water supply for States and local
11 governments.

12 “(B) Projects that are likely to increase
13 the water management flexibility and reduce
14 impacts on environmental resources from
15 projects operated by Federal and State agen-
16 cies.

17 “(C) Projects that are regional in nature.

18 “(D) Projects with multiple stakeholders.

19 “(E) Projects that provide multiple bene-
20 fits, including water supply reliability, eco-sys-
21 tem benefits, groundwater management and en-
22 hancements, and water quality improvements.

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) There is authorized to be appropriated to
2 the Secretary of the Interior an additional
3 \$50,000,000 to remain available until expended.

4 “(2) Projects can only receive funding if en-
5 acted appropriations legislation designates funding
6 to them by name, after the Secretary recommends
7 specific projects for funding pursuant to subsection
8 (f) and transmits such recommendations to the ap-
9 propriate committees of Congress.”.

10 (a) FUNDING.—Section 9504 of the Omnibus Public
11 Land Management Act of 2009 (42 U.S.C. 10364) is
12 amended in subsection (c) by striking “\$350,000,000”
13 and inserting “\$450,000,000” on the condition that of
14 that amount, \$50,000,000 of it is used to carry out section
15 206 of the Energy and Water Development and Related
16 Agencies Appropriation Act, 2015 (43 U.S.C. 620 note;
17 Public Law 113–235).

18 **SEC. ___ 10. ACTIONS TO BENEFIT THREATENED AND EN-**
19 **DANGERED SPECIES AND OTHER WILDLIFE.**

20 (a) INCREASED REAL-TIME MONITORING AND UP-
21 DATED SCIENCE.—

22 (1) SMELT BIOLOGICAL OPINION.—The Direc-
23 tor shall use the best scientific and commercial data
24 available to implement, continuously evaluate, and
25 refine or amend, as appropriate, the reasonable and

1 prudent alternative described in the smelt biological
2 opinion.

3 (2) INCREASED MONITORING TO INFORM REAL-
4 TIME OPERATIONS.—

5 (A) IN GENERAL.—The Secretary of the
6 Interior shall conduct additional surveys, on an
7 annual basis at the appropriate time of year
8 based on environmental conditions, in collabora-
9 tion with interested stakeholders regarding the
10 science of the Delta in general, and to enhance
11 real time decisionmaking in particular, working
12 in close coordination with relevant State au-
13 thorities.

14 (B) REQUIREMENTS.—In carrying out this
15 subsection, the Secretary of the Interior shall
16 use—

17 (i) the most appropriate and accurate
18 survey methods available for the detection
19 of Delta smelt to determine the extent to
20 which adult Delta smelt are distributed in
21 relation to certain levels of turbidity or
22 other environmental factors that may influ-
23 ence salvage rate;

24 (ii) results from appropriate surveys
25 for the detection of Delta smelt to deter-

1 mine how the Central Valley Project and
2 State Water Project may be operated more
3 efficiently to maximize fish and water sup-
4 ply benefits; and

5 (iii) science-based recommendations
6 developed by any of the persons or entities
7 described in paragraph (4)(B) to inform
8 the agencies' real-time decisions.

9 (C) WINTER MONITORING.—During the
10 period between December 1 and March 31, if
11 suspended sediment loads enter the Delta from
12 the Sacramento River, and the suspended sedi-
13 ment loads appear likely to raise turbidity levels
14 in the Old River north of the export pumps
15 from values below 12 Nephelometric Turbidity
16 Units (NTUs) to values above 12 NTUs, the
17 Secretary of the Interior shall—

18 (i) conduct daily monitoring using ap-
19 propriate survey methods at locations in-
20 cluding the vicinity of Station 902 to de-
21 termine the extent to which adult Delta
22 smelt are moving with turbidity toward the
23 export pumps; and

24 (ii) use results from the monitoring
25 under subparagraph (A) to determine how

1 increased trawling can inform daily real-
2 time Central Valley Project and State
3 Water Project operations to maximize fish
4 and water supply benefits.

5 (3) PERIODIC REVIEW OF MONITORING.—Not
6 later than 1 year after the date of enactment of this
7 title, the Secretary of the Interior shall—

8 (A) evaluate whether the monitoring pro-
9 gram under paragraph (2), combined with other
10 monitoring programs for the Delta, is providing
11 sufficient data to inform Central Valley Project
12 and State Water Project operations to maxi-
13 mize the water supply for fish and water supply
14 benefits; and

15 (B) determine whether the monitoring ef-
16 forts should be changed in the short or long
17 term to provide more useful data.

18 (4) DELTA SMELT DISTRIBUTION STUDY.—

19 (A) IN GENERAL.—Not later than March
20 15, 2021, the Secretary of the Interior shall—

21 (i) complete studies, to be initiated by
22 not later than 90 days after the date of en-
23 actment of this title, designed—

24 (I) to understand the location
25 and determine the abundance and dis-

1 tribution of Delta smelt throughout
2 the range of the Delta smelt; and
3 (II) to determine potential meth-
4 ods to minimize the effects of Central
5 Valley Project and State Water
6 Project operations on the Delta smelt;
7 (ii) based on the best available
8 science, if appropriate and practicable, im-
9 plement new targeted sampling and moni-
10 toring of Delta smelt in order to maximize
11 fish and water supply benefits prior to
12 completion of the study under clause (i);
13 (iii) to the maximum extent prac-
14 ticable, use new technologies to allow for
15 better tracking of Delta smelt, such as
16 acoustic tagging, optical recognition during
17 trawls, and fish detection using residual
18 deoxyribonucleic acid (DNA); and
19 (iv) if new sampling and monitoring is
20 not implemented under clause (ii), provide
21 a detailed explanation of the determination
22 of the Secretary of the Interior that no
23 change is warranted.

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

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

7 (ii) other public water agencies;

8 (iii) the California Department of
9 Fish and Wildlife and the California De-
10 partment of Water Resources; and

11 (iv) nongovernmental organizations.

12 (b) ACTIONS TO BENEFIT ENDANGERED FISH POPU-
13 LATIONS.—

14 (1) FINDINGS.—Congress finds that—

15 (A) minimizing or eliminating stressors to
16 fish populations and their habitat in an efficient
17 and structured manner is a key aspect of a fish
18 recovery strategy;

19 (B) functioning, diverse, and inter-
20 connected habitats are necessary for a species
21 to be viable; and

22 (C) providing for increased fish habitat
23 may not only allow for a more robust fish recov-
24 ery, but also reduce impacts to water supplies.

1 (2) ACTIONS FOR BENEFIT OF ENDANGERED
2 SPECIES.—There is authorized to be appropriated
3 the following amounts:

4 (A) \$15,000,000 for the Secretary of Com-
5 merce, through the Administrator of the Na-
6 tional Oceanic and Atmospheric Administration,
7 to carry out the following activities in accord-
8 ance with the Endangered Species Act of 1973
9 (16 U.S.C. 1531 et seq.):

10 (i) Gravel and rearing area additions
11 and habitat restoration to the Sacramento
12 River to benefit Chinook salmon and
13 steelhead trout.

14 (ii) Scientifically improved and in-
15 creased real-time monitoring to inform
16 real-time operations of Shasta and related
17 Central Valley Project facilities, and alter-
18 native methods, models, and equipment to
19 improve temperature modeling and related
20 forecasted information for purposes of pre-
21 dicting impacts to salmon and salmon
22 habitat as a result of water management
23 at Shasta.

24 (iii) Methods to improve the Delta sal-
25 vage systems, including alternative meth-

1 ods to redeposit salvaged salmon smolts
2 and other fish from the Delta in a manner
3 that reduces predation losses.

4 (B) \$3,000,000 for the Secretary of the
5 Interior to conduct the Delta smelt distribution
6 study referenced in section 11.

7 (3) COMMENCEMENT.—If the Administrator of
8 the National Oceanic and Atmospheric Administra-
9 tion determines that a proposed activity is feasible
10 and beneficial for protecting and recovering a fish
11 population, the Administrator shall commence imple-
12 mentation of the activity by not later than 1 year
13 after the date of enactment of this title.

14 (4) CONSULTATION.—The Administrator shall
15 take such steps as are necessary to partner with,
16 and coordinate the efforts of, the Department of the
17 Interior, the Department of Commerce, and other
18 relevant Federal departments and agencies to ensure
19 that all Federal reviews, analyses, opinions, state-
20 ments, permits, licenses, and other approvals or de-
21 cisions required under Federal law are completed on
22 an expeditious basis, consistent with Federal law.

23 (5) CONSERVATION FISH HATCHERIES.—

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

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

9 (B) REQUIREMENTS.—The conservation
10 hatchery programs established under paragraph
11 (1) and the associated hatchery and genetic
12 management plans shall be designed—

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

19 (ii) to minimize adverse effects to
20 Central Valley Project and State Water
21 Project operations.

22 (C) PRIORITY; COOPERATIVE AGREE-
23 MENTS.—In implementing this section, the Sec-
24 retaries of the Interior and Commerce—

1 (i) shall give priority to existing and
2 prospective hatchery programs and facili-
3 ties within the Delta and the riverine trib-
4 utaries thereto; and

5 (ii) may enter into cooperative agree-
6 ments for the operation of conservation
7 hatchery programs with States, Indian
8 tribes, and other nongovernmental entities
9 for the benefit, enhancement, and support
10 of naturally spawning fish species.

11 (6) ACQUISITION OF LAND, WATER, OR INTER-
12 ESTS FROM WILLING SELLERS FOR ENVIRONMENTAL
13 PURPOSES IN CALIFORNIA.—

14 (A) IN GENERAL.—The Secretary of the
15 Interior is authorized to acquire by purchase,
16 lease, donation, or otherwise, land, water, or in-
17 terests in land or water from willing sellers in
18 California—

19 (i) to benefit listed or candidate spe-
20 cies under the Endangered Species Act of
21 1973 (16 U.S.C. 1531 et seq.) or the Cali-
22 fornia Endangered Species Act (California
23 Fish and Game Code sections 2050
24 through 2116);

1 (ii) to meet requirements of, or other-
2 wise provide water quality benefits under,
3 the Federal Water Pollution Control Act
4 (33 U.S.C. 1251 et seq.) or the Porter Co-
5 logne Water Quality Control Act (division
6 7 of the California Water Code); or

7 (iii) for protection and enhancement
8 of the environment, as determined by the
9 Secretary of the Interior.

10 (B) STATE PARTICIPATION.—In imple-
11 menting this section, the Secretary of the Inte-
12 rior is authorized to participate with the State
13 of California or otherwise hold such interests
14 identified in subparagraph (A) in joint owner-
15 ship with the State of California based on a
16 cost share deemed appropriate by the Secretary.

17 (C) TREATMENT.—Any expenditures under
18 this subsection shall be nonreimbursable and
19 nonreturnable to the United States.

20 (7) REAUTHORIZATION OF THE FISHERIES RES-
21 TINATION AND IRRIGATION MITIGATION ACT OF
22 2000.—

23 (A) Section 10(a) of the Fisheries Restora-
24 tion and Irrigation Mitigation Act of 2000 (16
25 U.S.C. 777 note; Public Law 106–502) is

1 amended by striking “\$25 million for each of
2 fiscal years 2009 through 2015” and inserting
3 “\$15 million through 2021”; and

4 (B) Section 2 of the Fisheries Restoration
5 and Irrigation Mitigation Act of 2000 (16
6 U.S.C. 777 note; Public Law 106–502) is
7 amended by adding “California” after “Idaho”.

8 (c) ACTIONS TO BENEFIT REFUGES.—

9 (1) IN GENERAL.—In addition to funding under
10 section 3407 of the Central Valley Project Improve-
11 ment Act (Public Law 102–575; 106 Stat. 4726),
12 there is authorized to be appropriated to the Sec-
13 retary of the Interior \$2,000,000 for each of fiscal
14 years 2016 through 2020 for the acceleration and
15 completion of water infrastructure and conveyance
16 facilities necessary to achieve full water deliveries to
17 Central Valley wildlife refuges and habitat areas
18 pursuant to section 3406(d) of that Act (Public Law
19 102–575; 106 Stat. 4722).

20 (2) COST SHARING.—

21 (A) FEDERAL SHARE.—The Federal share
22 of the cost of carrying out an activity described
23 in this section shall be not more than 50 per-
24 cent.

1 (B) NON-FEDERAL SHARE.—The non-Fed-
2 eral share of the cost of carrying out an activity
3 described in this section—

4 (i) shall be not less than 50 percent;

5 and

6 (ii) may be provided in cash or in
7 kind.

8 (d) NON-FEDERAL PROGRAM TO PROTECT NATIVE
9 ANADROMOUS FISH IN STANISLAUS RIVER.—

10 (1) DEFINITION OF DISTRICT.—In this section,
11 the term “district” means—

12 (A) the Oakdale Irrigation District of the
13 State of California; and

14 (B) the South San Joaquin Irrigation Dis-
15 trict of the State of California.

16 (2) ESTABLISHMENT.—The Secretary of Com-
17 merce, acting through the Assistant Administrator
18 of the National Marine Fisheries Service, and the
19 districts shall jointly establish and conduct a non-
20 native predator research and pilot fish removal pro-
21 gram to study the effects of removing from the
22 Stanislaus River—

23 (A) nonnative striped bass, smallmouth
24 bass, largemouth bass, black bass; and

25 (B) other nonnative predator fish species.

1 (3) REQUIREMENTS.—The program under this
2 section shall—

3 (A) be scientifically based, with research
4 questions determined jointly by—

5 (i) National Marine Fisheries Service
6 scientists; and

7 (ii) technical experts of the districts;

8 (B) include methods to quantify by, among
9 other things, evaluating the number of juvenile
10 anadromous fish that migrate past the rotary
11 screw trap located at Caswell—

12 (i) the number and size of predator
13 fish removed each year; and

14 (ii) the impact of the removal on—

15 (I) the overall abundance of pred-
16 ator fish in the Stanislaus River; and

17 (II) the populations of juvenile
18 anadromous fish in the Stanislaus
19 River;

20 (C) among other methods, consider using
21 wire fyke trapping, portable resistance board
22 weirs, and boat electrofishing; and

23 (D) be implemented as quickly as prac-
24 ticable after the date of issuance of all nec-
25 essary scientific research permits.

1 (4) MANAGEMENT.—The management of the
2 program shall be the joint responsibility of the As-
3 sistant Administrator and the districts, which
4 shall—

5 (A) work collaboratively to ensure the per-
6 formance of the program; and

7 (B) discuss and agree on, among other
8 things—

9 (i) qualified scientists to lead the pro-
10 gram;

11 (ii) research questions;

12 (iii) experimental design;

13 (iv) changes in the structure, manage-
14 ment, personnel, techniques, strategy, data
15 collection and access, reporting, and con-
16 duct of the program; and

17 (v) the need for independent peer re-
18 view.

19 (5) CONDUCT.—

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

24 (i) the personnel of the Assistant Ad-
25 ministrators or districts;

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

3 (iii) personnel of, on loan to, or other-
4 wise assigned to the National Marine Fish-
5 eries Service; or

6 (iv) a combination of the individuals
7 described in clauses (i) through (iii).

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

10 (i) IN GENERAL.—If the districts elect
11 to conduct the program using district per-
12 sonnel or qualified private contractors
13 hired under clause (i) or (ii) of subpara-
14 graph (A), the Assistant Administrator
15 may assign an employee of, on loan to, or
16 otherwise assigned to the National Marine
17 Fisheries Service, to be present for all ac-
18 tivities performed in the field to ensure
19 compliance with paragraph (4).

20 (ii) COSTS.—The districts shall pay
21 the cost of participation by the employee
22 under clause (i), in accordance with para-
23 graph (6).

24 (C) TIMING OF ELECTION.—The districts
25 shall notify the Assistant Administrator of an

1 election under subparagraph (A) by not later
2 than October 15 of the calendar year preceding
3 the calendar year for which the election applies.

4 (6) FUNDING.—

5 (A) IN GENERAL.—The districts shall be
6 responsible for 100 percent of the cost of the
7 program.

8 (B) CONTRIBUTED FUNDS.—The Secretary
9 of Commerce may accept and use contributions
10 of funds from the districts to carry out activi-
11 ties under the program.

12 (C) ESTIMATION OF COST.—

13 (i) IN GENERAL.—Not later than De-
14 cember 1 of each year of the program, the
15 Secretary of Commerce shall submit to the
16 districts an estimate of the cost to be in-
17 curred by the National Marine Fisheries
18 Service for the program during the fol-
19 lowing calendar year, if any, including the
20 cost of any data collection and posting
21 under paragraph (7).

22 (ii) FAILURE TO FUND.—If an
23 amount equal to the estimate of the Sec-
24 retary of Commerce is not provided
25 through contributions pursuant to sub-

1 paragraph (B) before December 31 of that
2 calendar year—

3 (I) the Secretary shall have no
4 obligation to conduct the program ac-
5 tivities otherwise scheduled for the fol-
6 lowing calendar year until the amount
7 is contributed by the districts; and

8 (II) the districts may not conduct
9 any aspect of the program until the
10 amount is contributed by the districts.

11 (D) ACCOUNTING.—

12 (i) IN GENERAL.—Not later than Sep-
13 tember 1 of each year, the Secretary of
14 Commerce shall provide to the districts an
15 accounting of the costs incurred by the
16 Secretary for the program during the pre-
17 ceding calendar year.

18 (ii) EXCESS AMOUNTS.—If the
19 amount contributed by the districts pursu-
20 ant to subparagraph (B) for a calendar
21 year was greater than the costs incurred
22 by the Secretary of Commerce during that
23 year, the Secretary shall—

24 (I) apply the excess amounts to
25 the cost of activities to be performed

1 by the Secretary under the program,
2 if any, during the following calendar
3 year; or

4 (II) if no such activities are to be
5 performed, repay the excess amounts
6 to the districts.

7 (7) PUBLICATION AND EVALUATION OF
8 DATA.—

9 (A) IN GENERAL.—All data generated
10 through the program, including by any private
11 consultants, shall be routinely provided to the
12 Assistant Administrator.

13 (B) INTERNET.—Not later than the 15th
14 day of each month of the program, the Assist-
15 ant Administrator shall publish on the Internet
16 website of the National Marine Fisheries Serv-
17 ice a tabular summary of the raw data collected
18 under the program during the preceding month.

19 (C) REPORT.—On completion of the pro-
20 gram, the Assistant Administrator shall prepare
21 a final report evaluating the effectiveness of the
22 program, including recommendations for future
23 research and removal work.

24 (8) CONSISTENCY WITH LAW.—

1 (A) IN GENERAL.—The programs in this
2 section and subsection (e) are found to be con-
3 sistent with the requirements of the Central
4 Valley Project Improvement Act (Public Law
5 102–575; 106 Stat. 4706).

6 (B) LIMITATION.—No provision, plan, or
7 definition under that Act, including section
8 3406(b)(1) of that Act (Public Law 102–575;
9 106 Stat. 4714), shall be used—

10 (i) to prohibit the implementation of
11 the programs in this subsection and sub-
12 section (e); or

13 (ii) to prevent the accomplishment of
14 the goals of the programs.

15 (e) PILOT PROJECTS TO IMPLEMENT CALFED
16 INVASIVE SPECIES PROGRAM.—

17 (1) IN GENERAL.—Not later than January 1,
18 2018, the Secretary of the Interior, in collaboration
19 with the Secretary of Commerce, the Director of the
20 California Department of Fish and Wildlife, and
21 other relevant agencies and interested parties, shall
22 establish and carry out pilot projects to implement
23 the invasive species control program under section
24 103(d)(6)(A)(iv) of Public Law 108–361 (118 Stat.
25 1690).

1 (2) REQUIREMENTS.—The pilot projects under
2 this section shall—

3 (A) seek to reduce invasive aquatic vegeta-
4 tion (such as water hyacinth), predators, and
5 other competitors that contribute to the decline
6 of native listed pelagic and anadromous species
7 that occupy the Sacramento and San Joaquin
8 Rivers and their tributaries and the Delta; and

9 (B) remove, reduce, or control the effects
10 of species including Asiatic clams, silversides,
11 gobies, Brazilian water weed, largemouth bass,
12 smallmouth bass, striped bass, crappie, bluegill,
13 white and channel catfish, zebra and quagga
14 mussels, and brown bullheads.

15 (3) EMERGENCY ENVIRONMENTAL REVIEWS.—
16 To expedite environmentally beneficial programs in
17 this title for the conservation of threatened and en-
18 dangered species, the Secretaries of the Interior and
19 Commerce shall consult with the Council on Envi-
20 ronmental Quality in accordance with section
21 1506.11 of title 40, Code of Federal Regulations (or
22 successor regulations), to develop alternative ar-
23 rangements to comply with the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
25 for those programs.

1 (f) COLLABORATIVE PROCESSES.—Notwithstanding
2 the Federal Advisory Committee Act (5 U.S.C. App.) and
3 applicable Federal acquisitions and contracting authori-
4 ties, the Secretaries of the Interior and Commerce may
5 use the collaborative processes under the Collaborative
6 Science Adaptive Management Program to enter into con-
7 tracts with specific individuals or organizations directly or
8 in conjunction with appropriate State agencies.

9 (g) THE “SAVE OUR SALMON ACT”.—

10 (1) TREATMENT OF STRIPED BASS.—

11 (A) ANADROMOUS FISH.—Section 3403(a)
12 of the Central Valley Project Improvement Act
13 (title XXXIV of Public Law 102–575) is
14 amended by striking “striped bass,” after
15 “stocks of salmon (including steelhead),”.

16 (B) FISH AND WILDLIFE RESTORATION
17 ACTIVITIES.—Section 3406(b) of the Central
18 Valley Project Improvement Act (title XXXIV
19 of Public Law 102–575) is amended by—

20 (i) striking paragraphs (14) and (18);

21 (ii) redesignating paragraphs (15)
22 through (17) as paragraphs (14) through
23 (16), respectively; and

1 (iii) redesignating paragraphs (19)
2 through (23) as paragraphs (17) through
3 (21), respectively.

4 (2) CONFORMING CHANGES.—Section 3407(a)
5 of the Central Valley Project Improvement Act (title
6 XXXIV of Public Law 102–575) is amended by
7 striking “(10)–(18), and (20)–(22)” and inserting
8 “(10)–(16), and (18)–(20)”.

9 **SEC. ___ 11. OFFSETS AND WATER STORAGE ACCOUNT.**

10 (a) PREPAYMENT OF CERTAIN REPAYMENT CON-
11 TRACTS BETWEEN THE UNITED STATES AND CONTRAC-
12 TORS OF FEDERALLY DEVELOPED WATER SUPPLIES.—

13 (1) CONVERSION AND PREPAYMENT OF CON-
14 TRACTS.—Upon request of the contractor, the Sec-
15 retary of the Interior shall convert any water service
16 contract in effect on the date of enactment of this
17 title and between the United States and a water
18 users’ association to allow for prepayment of the re-
19 payment contract pursuant to paragraph (2) under
20 mutually agreeable terms and conditions. The man-
21 ner of conversion under this paragraph shall be as
22 follows:

23 (A) Water service contracts that were en-
24 tered into under section (e) of the Act of Au-
25 gust 4, 1939 (53 Stat. 1196), to be converted

1 under this section shall be converted to repay-
2 ment contracts under section 9(d) of that Act
3 (53 Stat. 1195).

4 (B) Water service contracts that were en-
5 tered under subsection (c)(2) of section 9 of the
6 Act of August 4, 1939 (53 Stat. 1194), to be
7 converted under this section shall be converted
8 to a contract under subsection (c)(1) of section
9 9 of that Act (53 Stat. 1195).

10 (2) PREPAYMENT.—Except for those repayment
11 contracts under which the contractor has previously
12 negotiated for prepayment, all repayment contracts
13 under section 9(d) of that Act (53 Stat. 1195) in ef-
14 fect on the date of enactment of this title at the re-
15 quest of the contractor, and all contracts converted
16 pursuant to paragraph (1)(A) shall—

17 (A) provide for the repayment, either in
18 lump sum or by accelerated prepayment, of the
19 remaining construction costs identified in water
20 project specific irrigation rate repayment sched-
21 ules, as adjusted to reflect payment not re-
22 flected in such schedule, and properly assign-
23 able for ultimate return by the contractor, or if
24 made in approximately equal installments, no
25 later than 3 years after the effective date of the

1 repayment contract, such amount to be dis-
2 counted by $\frac{1}{2}$ the Treasury rate. An estimate
3 of the remaining construction costs, as ad-
4 justed, shall be provided by the Secretary to the
5 contractor no later than 90 days following re-
6 ceipt of request of the contractor;

7 (B) require that construction costs or
8 other capitalized costs incurred after the effec-
9 tive date of the contract or not reflected in the
10 rate schedule referenced in subparagraph (A),
11 and properly assignable to such contractor shall
12 be repaid in not more than 5 years after notifi-
13 cation of the allocation if such amount is a re-
14 sult of a collective annual allocation of capital
15 costs to the contractors exercising contract con-
16 version under this subsection of less than
17 \$5,000,000. If such amount is \$5,000,000 or
18 greater, such cost shall be repaid as provided by
19 applicable reclamation law;

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

24 (D) continue so long as the contractor
25 pays applicable charges, consistent with section

1 9(d) of the Act of August 4, 1939 (53 Stat.
2 1195), and applicable law.

3 (3) CONTRACT REQUIREMENTS.—Except for
4 those repayment contracts under which the con-
5 tractor has previously negotiated for prepayment,
6 the following shall apply with regard to all repay-
7 ment contracts under subsection (c)(1) of section 9
8 of that Act (53 Stat. 1195) in effect on the date of
9 enactment of this title at the request of the con-
10 tractor, and all contracts converted pursuant to
11 paragraph (1)(B):

12 (A) Provide for the repayment in lump
13 sum of the remaining construction costs identi-
14 fied in water project specific municipal and in-
15 dustrial rate repayment schedules, as adjusted
16 to reflect payments not reflected in such sched-
17 ule, and properly assignable for ultimate return
18 by the contractor. An estimate of the remaining
19 construction costs, as adjusted, shall be pro-
20 vided by the Secretary to the contractor no
21 later than 90 days after receipt of request of
22 contractor.

23 (B) The contract shall require that con-
24 struction costs or other capitalized costs in-
25 curred after the effective date of the contract or

1 not reflected in the rate schedule referenced in
2 subparagraph (A), and properly assignable to
3 such contractor, shall be repaid in not more
4 than 5 years after notification of the allocation
5 if such amount is a result of a collective annual
6 allocation of capital costs to the contractors ex-
7 ercising contract conversion under this sub-
8 section of less than \$5,000,000. If such amount
9 is \$5,000,000 or greater, such cost shall be re-
10 paid as provided by applicable reclamation law.

11 (C) Continue so long as the contractor
12 pays applicable charges, consistent with section
13 9(e)(1) of the Act of August 4, 1939 (53 Stat.
14 1195), and applicable law.

15 (4) CONDITIONS.—All contracts entered into
16 pursuant to paragraphs (1), (2), and (3) shall—

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

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

23 (C) not modify other water service, repay-
24 ment, exchange and transfer contractual rights
25 between the water users' association, and the

1 Bureau of Reclamation, or any rights, obliga-
2 tions, or relationships of the water users' asso-
3 ciation and their landowners as provided under
4 State law.

5 (b) ACCOUNTING.—The amounts paid pursuant to
6 subsection (a) shall be subject to adjustment following a
7 final cost allocation by the Secretary of the Interior. In
8 the event that the final cost allocation indicates that the
9 costs properly assignable to the contractor are greater
10 than what has been paid by the contractor, the contractor
11 shall be obligated to pay the remaining allocated costs.
12 The term of such additional repayment contract shall be
13 not less than one year and not more than 10 years, how-
14 ever, mutually agreeable provisions regarding the rate of
15 repayment of such amount may be developed by the par-
16 ties. In the event that the final cost allocation indicates
17 that the costs properly assignable to the contractor are
18 less than what the contractor has paid, the Secretary shall
19 credit such overpayment as an offset against any out-
20 standing or future obligation of the contractor, with the
21 exception of Restoration Fund charges pursuant to section
22 3407(d) of Public Law 102–575.

23 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

24 (1) EFFECT OF EXISTING LAW.—Upon a con-
25 tractor's compliance with and discharge of the obli-

1 gation of repayment of the construction costs pursu-
2 ant to a contract entered into pursuant to subsection
3 (a)(2)(A), subsections (a) and (b) of section 213 of
4 the Reclamation Reform Act of 1982 (96 Stat.
5 1269) shall apply to affected lands.

6 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
7 ligation of a contractor to repay construction costs
8 or other capitalized costs described in subsection
9 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
10 tractor’s status as having repaid all of the construc-
11 tion costs assignable to the contractor or the appli-
12 cability of subsections (a) and (b) of section 213 of
13 the Reclamation Reform Act of 1982 (96 Stat.
14 1269) once the amount required to be paid by the
15 contractor under the repayment contract entered
16 into pursuant to subsection (a)(2)(A) has been paid.

17 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-
18 plementation of the provisions of this title shall not alter—

19 (1) the repayment obligation of any water serv-
20 ice or repayment contractor receiving water from the
21 same water project, or shift any costs that would
22 otherwise have been properly assignable to the water
23 users’ association identified in subsections (a)(1),
24 (a)(2), and (a)(3) absent this section, including op-
25 eration and maintenance costs, construction costs, or

1 other capitalized costs incurred after the date of the
2 enactment of this title, or to other contractors; and

3 (2) specific requirements for the disposition of
4 amounts received as repayments by the Secretary
5 under the Act of June 17, 1902 (32 Stat. 388, chap-
6 ter 1093), and Acts supplemental to and amend-
7 atory of that Act (43 U.S.C. 371 et seq.);

8 (3) the priority of a water service or repayment
9 contractor to receive water; or

10 (4) except as expressly provided in this section,
11 any obligations under the reclamation law, including
12 the continuation of Restoration Fund charges pursu-
13 ant to section 3407(d) (Public Law 102–575), of the
14 water service and repayment contractors making
15 prepayments pursuant to this section.

16 (e) WATER STORAGE ENHANCEMENT PROGRAM.—

17 (1) IN GENERAL.—Except as provided in sub-
18 section (d)(2), \$335,000,000 out of receipts gen-
19 erated from prepayment of contracts under this sec-
20 tion beyond amounts necessary to cover the amount
21 of receipts forgone from scheduled payments under
22 current law for the 10-year period following the date
23 of enactment of this Act shall be directed to the
24 Reclamation Water Storage Account under para-
25 graph (2).

1 (2) STORAGE ACCOUNT.—The Secretary shall
2 allocate amounts collected under paragraph (1) into
3 the “Reclamation Storage Account” to fund the con-
4 struction of water storage. The Secretary may also
5 enter into cooperative agreements with water users’
6 associations for the construction of water storage
7 and amounts within the Storage Account may be
8 used to fund such construction. Water storage
9 projects that are otherwise not federally authorized
10 shall not be considered Federal facilities as a result
11 of any amounts allocated from the Storage Account
12 for part or all of such facilities.

13 (3) REPAYMENT.—Amounts used for water
14 storage construction from the Account shall be fully
15 reimbursed to the Account consistent with the re-
16 quirements under Federal reclamation law (the Act
17 of June 17, 1902 (32 Stat. 388, chapter 1093), and
18 Acts supplemental to and amendatory of that Act
19 (43 U.S.C. 371 et seq.)) except that all funds reim-
20 bursed shall be deposited in the Account established
21 under paragraph (2).

22 (4) AVAILABILITY OF AMOUNTS.—Amounts de-
23 posited in the Account under this subsection shall—

24 (A) be made available in accordance with
25 this section, subject to appropriation; and

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

4 (f) DEFINITIONS.—For the purposes of this title, the
5 following definitions apply:

6 (1) ACCOUNT.—The term “Account” means the
7 Reclamation Water Storage Account established
8 under subsection (e)(2).

9 (2) CONSTRUCTION.—The term “construction”
10 means the designing, materials engineering and test-
11 ing, surveying, and building of water storage includ-
12 ing additions to existing water storage and construc-
13 tion of new water storage facilities, exclusive of any
14 Federal statutory or regulatory obligations relating
15 to any permit, review, approval, or other such re-
16 quirement.

17 (3) WATER STORAGE.—The term “water stor-
18 age” means any federally owned facility under the
19 jurisdiction of the Bureau of Reclamation or any
20 non-Federal facility used for the storage and supply
21 of water resources.

22 (4) TREASURY RATE.—The term “Treasury
23 rate” means the 20- year Constant Maturity Treas-
24 ury (CMT) rate published by the United States De-

1 partment of the Treasury existing on the effective
2 date of the contract.

3 (5) WATER USERS' ASSOCIATION.—The term
4 “water users' association” means—

5 (A) an entity organized and recognized
6 under State laws that is eligible to enter into
7 contracts with reclamation to receive contract
8 water for delivery to end users of the water and
9 to pay applicable charges; and

10 (B) includes a variety of entities with dif-
11 ferent names and differing functions, such as
12 associations, conservatory districts, irrigation
13 districts, municipalities, and water project con-
14 tract units.

15 **SEC. ___ 12. SAVINGS LANGUAGE.**

16 (a) IN GENERAL.—This title shall not be interpreted
17 or implemented in a manner that—

18 (1) preempts or modifies any obligation of the
19 United States to act in conformance with applicable
20 State law, including applicable State water law;

21 (2) affects or modifies any obligation under the
22 Central Valley Project Improvement Act (Public
23 Law 102–575; 106 Stat. 4706), except for the sav-
24 ings provisions for the Stanislaus River predator

1 management program expressly established by sec-
2 tion 11(d) and provisions in section 11(g);

3 (3) overrides, modifies, or amends the applica-
4 bility of the Endangered Species Act of 1973 (16
5 U.S.C. 1531 et seq.) or the application of the smelt
6 and salmonid biological opinions to the operation of
7 the Central Valley Project or the State Water
8 Project;

9 (4) would cause additional adverse effects on
10 listed fish species beyond the range of effects antici-
11 pated to occur to the listed fish species for the dura-
12 tion of the applicable biological opinion, using the
13 best scientific and commercial data available; or

14 (5) overrides, modifies, or amends any obliga-
15 tion of the Pacific Fisheries Management Council,
16 required by the Magnuson Stevens Act or the En-
17 dangered Species Act of 1973, to manage fisheries
18 off the coast of California, Oregon, or Washington.

19 (b) SUCCESSOR BIOLOGICAL OPINIONS.—

20 (1) IN GENERAL.—The Secretaries of the Inte-
21 rior and Commerce shall apply this Act to any suc-
22 cessor biological opinions to the smelt or salmonid
23 biological opinions only to the extent that the Secre-
24 taries determine is consistent with—

1 (A) the Endangered Species Act of 1973
2 (16 U.S.C. 1531 et seq.), its implementing reg-
3 ulations, and the successor biological opinions;
4 and

5 (B) subsection (a)(4).

6 (2) LIMITATION.—Nothing in this Act shall re-
7 strict the Secretaries of the Interior and Commerce
8 from completing consultation on successor biological
9 opinions and through those successor biological opin-
10 ions implementing whatever adjustments in oper-
11 ations or other activities as may be required by the
12 Endangered Species Act of 1973 and its imple-
13 menting regulations.

14 (c) SEVERABILITY.—If any provision of this title, or
15 any application of such provision to any person or cir-
16 cumstance, is held to be inconsistent with any law or the
17 biological opinions, the remainder of this title and the ap-
18 plication of this title to any other person or circumstance
19 shall not be affected.

20 **SEC. ___13. DURATION.**

21 This title shall expire on the date that is 5 years after
22 the date of its enactment, with the exception of—

23 (1) section __04, which shall expire 10 years
24 after the date of its enactment; and

1 (2) projects under construction in sections
2 __07, __09(a), and __09(b).

3 **SEC. __14. DEFINITIONS.**

4 In this title:

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

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

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

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

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

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

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

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

12 (B) Delta smelt.

13 (8) RECLAMATION STATE.—The term “Rec-
14 lamation State” means any of the States of—

15 (A) Arizona;

16 (B) California;

17 (C) Colorado;

18 (D) Idaho;

19 (E) Kansas;

20 (F) Montana;

21 (G) Nebraska;

22 (H) Nevada;

23 (I) New Mexico;

24 (J) North Dakota;

25 (K) Oklahoma;

- 1 (L) Oregon;
2 (M) South Dakota;
3 (N) Texas;
4 (O) Utah;
5 (P) Washington; and
6 (Q) Wyoming.

7 (9) SALMONID BIOLOGICAL OPINION.—

8 (A) IN GENERAL.—The term “salmonid bi-
9 ological opinion” means the biological and con-
10 ference opinion of the National Marine Fish-
11 eries Service dated June 4, 2009, regarding the
12 long-term operation of the Central Valley
13 Project and the State Water Project, and suc-
14 cessor biological opinions.

15 (B) INCLUSIONS.—The term “salmonid bi-
16 ological opinion” includes the operative inci-
17 dental take statement of the opinion described
18 in subparagraph (A).

19 (10) SMELT BIOLOGICAL OPINION.—

20 (A) IN GENERAL.—The term “smelt bio-
21 ological opinion” means the biological opinion
22 dated December 15, 2008, regarding the coordi-
23 nated operation of the Central Valley Project
24 and the State Water Project, and successor bio-
25 logical opinions.

1 (B) INCLUSIONS.—The term “smelt bio-
2 logical opinion” includes the operative inci-
3 dental take statement of the opinion described
4 in subparagraph (A).

5 (11) STATE WATER PROJECT.—The term
6 “State Water Project” means the water project de-
7 scribed in chapter 5 of part 3 of division 6 of the
8 California Water Code (sections 11550 et seq.) (as
9 in effect on the date of enactment of this Act) and
10 operated by the California Department of Water Re-
11 sources.