

114TH CONGRESS
2D SESSION

S. 2902

To provide for long-term water supplies, optimal use of existing water supply infrastructure, and protection of existing water rights.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2016

Mr. FLAKE (for himself, Mr. BARRASSO, Mr. MCCAIN, Mr. RISCH, Mr. HELLER, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for long-term water supplies, optimal use of existing water supply infrastructure, and protection of existing water rights.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Western Water Supply and Planning Enhancement Act
6 of 2016”.

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

Sec. 1. Short title; table of contents.

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

Subtitle A—Water Supply Improvements

- Sec. 101. Reservoir operation improvement.
- Sec. 102. Authority to make entire active capacity of Fontenelle Reservoir available for use.
- Sec. 103. Saltcedar control efforts.
- Sec. 104. Colorado River System.

Subtitle B—Protecting Critical Water Supply Watersheds

- Sec. 111. Definitions.
- Sec. 112. Analysis of only two alternatives in proposed collaborative management activities.
- Sec. 113. Categorical exclusion to expedite certain critical response actions.
- Sec. 114. Compliance with land use plan.

Subtitle C—Bureau of Reclamation Transparency Act

- Sec. 121. Short title.
- Sec. 122. Findings.
- Sec. 123. Definitions.
- Sec. 124. Asset management report enhancements for reserved works.
- Sec. 125. Asset management report enhancements for transferred works.
- Sec. 126. Offset.

Subtitle D—Water Supply Permitting Act

- Sec. 131. Short title.
- Sec. 132. Definitions.
- Sec. 133. Establishment of lead agency and cooperating agencies.
- Sec. 134. Bureau responsibilities.
- Sec. 135. Cooperating agency responsibilities.
- Sec. 136. Funding to process permits.

Subtitle E—Bureau of Reclamation Project Streamlining Act

- Sec. 141. Short title.
- Sec. 142. Definitions.
- Sec. 143. Acceleration of studies.
- Sec. 144. Expedited completion of reports.
- Sec. 145. Project acceleration.
- Sec. 146. Annual report to Congress.

TITLE II—PROTECTING EXISTING WATER RIGHTS

- Sec. 201. Short title.
- Sec. 202. Definitions.
- Sec. 203. Applicability.
- Sec. 204. Prohibitions.
- Sec. 205. Policy development.
- Sec. 206. Effect of title.

TITLE III—COMPLETING AND MAINTAINING RURAL WATER
SUPPLY INFRASTRUCTURE

Subtitle A—Irrigation Rehabilitation and Renovation for Indian Tribal
Governments and Economies

- Sec. 301. Short title.
Sec. 302. Definitions.

PART I—INDIAN IRRIGATION FUND

- Sec. 311. Establishment.
Sec. 312. Deposits to Fund.
Sec. 313. Expenditures from Fund.
Sec. 314. Investments of amounts.
Sec. 315. Transfers of amounts.
Sec. 316. Termination.

PART II—REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN
IRRIGATION PROJECTS

- Sec. 321. Repair, replacement, and maintenance of certain Indian irrigation
projects.
Sec. 322. Eligible projects.
Sec. 323. Requirements and conditions.
Sec. 324. Study of Indian irrigation program and project management.
Sec. 325. Tribal consultation and user input.
Sec. 326. Allocation among projects.

Subtitle B—Clean Water for Rural Communities

- Sec. 331. Short title.
Sec. 332. Purpose.
Sec. 333. Definitions.
Sec. 334. Dry-Redwater Regional Water Authority System and Musselshell-Ju-
dith Rural Water System.
Sec. 335. Use of power from Pick-Sloan program by Dry-Redwater Regional
Water Authority System.
Sec. 336. Water rights.
Sec. 337. Authorization of appropriations.

TITLE IV—OFFSET

- Sec. 401. Accelerated revenue, repayment, and surface water storage enhance-
ment.

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

5 **Subtitle A—Water Supply**
6 **Improvements**

7 **SEC. 101. RESERVOIR OPERATION IMPROVEMENT.**

8 (a) DEFINITIONS.—In this section:

9 (1) RESERVED WORKS.—The term “reserved
10 works” means any Bureau of Reclamation project
11 facility at which the Secretary of the Interior carries
12 out the operation and maintenance of the project fa-
13 cility.

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of the Army.

16 (3) TRANSFERRED WORKS.—The term “trans-
17 ferred works” means a Bureau of Reclamation
18 project facility, the operation and maintenance of
19 which is carried out by a non-Federal entity, under
20 the provisions of a formal operation and mainte-
21 nance transfer contract.

22 (4) TRANSFERRED WORKS OPERATING ENTI-
23 TY.—The term “transferred works operating entity”
24 means the organization that is contractually respon-

1 sible for operation and maintenance of transferred
2 works.

3 (b) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary shall submit to
5 the Committee on Environment and Public Works of the
6 Senate and the Committee on Transportation and Infra-
7 structure of the House of Representatives a report includ-
8 ing, for any State in which a county designated by the
9 Secretary of Agriculture as a drought disaster area during
10 water year 2015 is located, a list of projects, including
11 Corps of Engineers projects, and those non-Federal
12 projects and transferred works that are operated for flood
13 control in accordance with rules prescribed by the Sec-
14 retary pursuant to section 7 of the Act of December 22,
15 1944 (commonly known as the “Flood Control Act of
16 1944”) (58 Stat. 890, chapter 665), including, as applica-
17 ble—

18 (1) the year the original water control manual
19 was approved;

20 (2) the year for any subsequent revisions to the
21 water control plan and manual of the project;

22 (3) a list of projects for which—

23 (A) operational deviations for drought con-
24 tingency have been requested;

25 (B) the status of the request; and

1 (C) a description of how water conserva-
2 tion and water quality improvements were ad-
3 dressed; and

4 (4) a list of projects for which permanent or
5 seasonal changes to storage allocations have been re-
6 quested, and the status of the request.

7 (c) PROJECT IDENTIFICATION.—Not later than 60
8 days after the date of completion of the report under sub-
9 section (b), the Secretary shall identify any projects de-
10 scribed in the report—

11 (1) for which the modification of the water op-
12 erations manuals, including flood control rule curve,
13 would be likely to enhance existing authorized
14 project purposes, including for water supply benefits
15 and flood control operations;

16 (2) for which the water control manual and
17 hydrometeorological information establishing the
18 flood control rule curves of the project have not been
19 substantially revised during the 15-year period end-
20 ing on the date of review by the Secretary; and

21 (3) for which the non-Federal sponsor or spon-
22 sors of a Corps of Engineers project, the owner of
23 a non-Federal project, or the non-Federal trans-
24 ferred works operating entity, as applicable, has sub-
25 mitted to the Secretary a written request to revise

1 water operations manuals, including flood control
2 rule curves, based on the use of improved weather
3 forecasting or run-off forecasting methods, new wa-
4 tershed data, changes to project operations, or struc-
5 tural improvements.

6 (d) PILOT PROJECTS.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of identification of projects under sub-
9 section (c), if any, the Secretary shall carry out not
10 less than 15 pilot projects, which shall include not
11 less than 6 non-Federal projects, to implement revi-
12 sions of water operations manuals, including flood
13 control rule curves, based on the best available
14 science, which may include—

15 (A) forecast-informed operations;

16 (B) new watershed data, including data
17 submitted by a non-Federal applicant; and

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

20 (2) CONSULTATION.—In implementing a pilot
21 project under this subsection, the Secretary shall
22 consult with all affected interests, including—

23 (A) non-Federal entities responsible for op-
24 erations and maintenance costs of a Federal fa-
25 cility;

1 (B) individuals and entities with storage
2 entitlements; and

3 (C) local agencies with flood control re-
4 sponsibilities downstream of a facility.

5 (e) COORDINATION WITH NON-FEDERAL PROJECT
6 ENTITIES.—If a project identified under subsection (c)
7 is—

8 (1) a non-Federal project, the Secretary, prior
9 to carrying out an activity under this section,
10 shall—

11 (A) consult with the non-Federal project
12 owner; and

13 (B) enter into a cooperative agreement,
14 memorandum of understanding, or other agree-
15 ment with the non-Federal project owner de-
16 scribing the scope and goals of the activity and
17 the coordination among the parties; and

18 (2) a Federal project, the Secretary, prior to
19 carrying out an activity under this section, shall—

20 (A) consult with each Federal and non-
21 Federal entity (including a municipal water dis-
22 trict, irrigation district, joint powers authority,
23 transferred works operating entity, or other
24 local governmental entity) that currently—

1 (i) manages (in whole or in part) a
2 Federal dam or reservoir; or

3 (ii) is responsible for operations and
4 maintenance costs; and

5 (B) enter into a cooperative agreement,
6 memorandum of understanding, or other agree-
7 ment with each such entity describing the scope
8 and goals of the activity and the coordination
9 among the parties.

10 (f) CONSIDERATION.—In designing and imple-
11 menting a forecast-informed reservoir operations plan
12 under subsection (d) or (g), the Secretary may consult
13 with the appropriate agencies within the Department of
14 the Interior and the Department of Commerce with exper-
15 tise in atmospheric, meteorological, and hydrologic science
16 to consider—

17 (1) the relationship between ocean and atmos-
18 pheric conditions, including—

19 (A) the El Niño and La Niña cycles; and

20 (B) the potential for above-normal, normal,
21 and below-normal rainfall for the coming water
22 year, including consideration of atmospheric
23 river forecasts;

24 (2) the precipitation and runoff index specific
25 to the basin and watershed of the relevant dam or

1 reservoir, including incorporating knowledge of
2 hydrological and meteorological conditions that influ-
3 ence the timing and quantity of runoff;

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

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

12 (5) proactive management in response to
13 changes in forecasts.

14 (g) FUNDING.—The Secretary may accept and ex-
15 pend amounts from non-Federal entities and other Fed-
16 eral agencies to fund all or a portion of the cost of car-
17 rying out a review or revision of operational documents,
18 including water control plans, water control manuals,
19 water control diagrams, release schedules, rule curves,
20 operational agreements with non-Federal entities, and any
21 associated environmental documentation for—

22 (1) a Corps of Engineers project;

23 (2) a non-Federal project regulated for flood
24 control by the Secretary; or

1 (3) a Bureau of Reclamation facility regulated
2 for flood control by the Secretary.

3 (h) EFFECT.—

4 (1) MANUAL REVISIONS.—A revision of a man-
5 ual shall not interfere with the authorized purposes
6 of a Federal project or the existing purposes of a
7 non-Federal project regulated for flood control by
8 the Secretary.

9 (2) EFFECT OF SECTION.—

10 (A) Nothing in this section authorizes the
11 Secretary to carry out, at a Federal dam or res-
12 ervoir, any project or activity for a purpose not
13 otherwise authorized as of the date of enact-
14 ment of this Act.

15 (B) Nothing in this section affects or
16 modifies any obligation of the Secretary under
17 State law.

18 (C) Nothing in this section affects or modi-
19 fies any obligation to comply with any applica-
20 ble Federal law.

21 (D) This section only applies to facilities
22 located in a State in which a Bureau of Rec-
23 lamation project is located.

24 (3) BUREAU OF RECLAMATION RESERVED
25 WORKS EXCLUDED.—This section—

1 (A) shall not apply to any dam or reservoir
2 operated by the Bureau of Reclamation as a re-
3 served work, unless all non-Federal project
4 sponsors of a reserved work jointly provide to
5 the Secretary a written request for application
6 of this section to the project; and

7 (B) shall apply only to Bureau of Reclama-
8 tion transferred works at the written request of
9 the transferred works operating entity.

10 (i) PRIOR STUDIES.—In carrying out subsections (b),
11 (c), and (d), to the maximum extent practicable, the Sec-
12 retary shall—

13 (1) coordinate with the efforts of the Secretary
14 to complete the reports required under subpara-
15 graphs (A)(iii) and (B) of subsection (a)(2) of sec-
16 tion 1046 of the Water Resources Reform and De-
17 velopment Act of 2014 (33 U.S.C. 2319 note; 128
18 Stat. 1251); and

19 (2) consider the findings of the reports de-
20 scribed in paragraph (1) if the reports are available
21 prior to carrying out subsections (b), (c), and (d).

22 (j) MODIFICATIONS TO MANUALS AND CURVES.—
23 Not later than 180 days after the date of completion of
24 a modification to an operations manual or flood control
25 rule curve, the Secretary shall submit to the Committee

1 on Environment and Public Works of the Senate and the
2 Committee on Transportation and Infrastructure of the
3 House of Representatives a report regarding the compo-
4 nents of the forecast-based reservoir operations plan incor-
5 porated into the change.

6 **SEC. 102. AUTHORITY TO MAKE ENTIRE ACTIVE CAPACITY**
7 **OF FONTENELLE RESERVOIR AVAILABLE**
8 **FOR USE.**

9 (a) IN GENERAL.—The Secretary of the Interior, in
10 cooperation with the State of Wyoming, may amend the
11 Definite Plan Report for the Seedskadee Project author-
12 ized under the first section of the Act of April 11, 1956
13 (commonly known as the “Colorado River Storage Project
14 Act”) (43 U.S.C. 620), to provide for the study, design,
15 planning, and construction activities that will enable the
16 use of all active storage capacity (as may be defined or
17 limited by legal, hydrologic, structural, engineering, eco-
18 nomic, and environmental considerations) of Fontenelle
19 Dam and Reservoir, including the placement of sufficient
20 riprap on the upstream face of Fontenelle Dam to allow
21 the active storage capacity of Fontenelle Reservoir to be
22 used for those purposes for which the Seedskadee Project
23 was authorized.

24 (b) COOPERATIVE AGREEMENTS.—

1 (1) IN GENERAL.—The Secretary of the Inte-
2 rior may enter into any contract, grant, cooperative
3 agreement, or other agreement that is necessary to
4 carry out subsection (a).

5 (2) STATE OF WYOMING.—

6 (A) IN GENERAL.—The Secretary of the
7 Interior shall enter into a cooperative agree-
8 ment with the State of Wyoming to work in co-
9 operation and collaboratively with the State of
10 Wyoming for planning, design, related
11 preconstruction activities, and construction of
12 any modification of the Fontenelle Dam under
13 subsection (a).

14 (B) REQUIREMENTS.—The cooperative
15 agreement under subparagraph (A) shall, at a
16 minimum, specify the responsibilities of the
17 Secretary of the Interior and the State of Wyo-
18 ming with respect to—

19 (i) completing the planning and final
20 design of the modification of the
21 Fontenelle Dam under subsection (a);

22 (ii) any environmental and cultural re-
23 source compliance activities required for
24 the modification of the Fontenelle Dam

1 under subsection (a) including compliance
2 with—

3 (I) the National Environmental
4 Policy Act of 1969 (42 U.S.C. 4321
5 et seq.);

6 (II) the Endangered Species Act
7 of 1973 (16 U.S.C. 1531 et seq.); and

8 (III) subdivision 2 of division A
9 of subtitle III of title 54, United
10 States Code; and

11 (iii) the construction of the modifica-
12 tion of the Fontenelle Dam under sub-
13 section (a).

14 (c) FUNDING BY STATE OF WYOMING.—Pursuant to
15 the Act of March 4, 1921 (41 Stat. 1404, chapter 161;
16 43 U.S.C. 395), and as a condition of providing any addi-
17 tional storage under subsection (a), the State of Wyoming
18 shall provide to the Secretary of the Interior funds for any
19 work carried out under subsection (a).

20 (d) OTHER CONTRACTING AUTHORITY.—

21 (1) IN GENERAL.—The Secretary of the Inte-
22 rior may enter into contracts with the State of Wyo-
23 ming, on such terms and conditions as the Secretary
24 of the Interior and the State of Wyoming may agree,

1 for division of any additional active capacity made
2 available under subsection (a).

3 (2) TERMS AND CONDITIONS.—Unless other-
4 wise agreed to by the Secretary of the Interior and
5 the State of Wyoming, a contract entered into under
6 paragraph (1) shall be subject to the terms and con-
7 ditions of Bureau of Reclamation Contract No. 14-
8 06-400-2474 and Bureau of Reclamation Contract
9 No. 14-06-400-6193.

10 (e) SAVINGS PROVISIONS.—Unless expressly provided
11 in this section, nothing in this section modifies, conflicts
12 with, preempts, or otherwise affects—

13 (1) the Act of December 31, 1928 (43 U.S.C.
14 617 et seq.) (commonly known as the “Boulder Can-
15 yon Project Act”);

16 (2) the Colorado River Compact of 1922, as ap-
17 proved by the Presidential Proclamation of June 25,
18 1929 (46 Stat. 3000);

19 (3) the Act of July 19, 1940 (43 U.S.C. 618
20 et seq.) (commonly known as the “Boulder Canyon
21 Project Adjustment Act”);

22 (4) the Treaty between the United States of
23 America and Mexico relating to the utilization of
24 waters of the Colorado and Tijuana Rivers and of
25 the Rio Grande, and supplementary protocol signed

1 November 14, 1944, signed at Washington February
2 3, 1944 (59 Stat. 1219);

3 (5) the Upper Colorado River Basin Compact
4 as consented to by the Act of April 6, 1949 (63
5 Stat. 31);

6 (6) the Act of April 11, 1956 (commonly known
7 as the “Colorado River Storage Project Act”) (43
8 U.S.C. 620 et seq.);

9 (7) the Colorado River Basin Project Act (Pub-
10 lic Law 90–537; 82 Stat. 885); or

11 (8) any law of the State of Wyoming or other
12 State.

13 **SEC. 103. SALT CEDAR CONTROL EFFORTS.**

14 (a) STUDY.—The Secretary of the Interior, consistent
15 with applicable laws (including regulations) and in coordi-
16 nation with the Secretary of Agriculture, shall enter into
17 an arrangement with the National Academy of Sciences
18 under which the National Academy of Sciences shall con-
19 duct a comprehensive study, to be completed not later
20 than 1 year after the date of enactment of this Act, on
21 the effectiveness and environmental impacts of saltcedar
22 biological and mechanical control efforts on increasing
23 water supplies and improving riparian habitats, includ-
24 ing—

1 (1) a list of Federal permits that would be re-
2 quired for any program to implement saltcedar bio-
3 logical and mechanical controls; and

4 (2) a list of existing programs, authorities, or
5 technical assistance opportunities that are currently
6 available to such a program.

7 (b) REPORT.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of completion of the study under sub-
10 section (a), the Secretary of the Interior shall sub-
11 mit to the Committees on Appropriations and Nat-
12 ural Resources of the House of Representatives and
13 the Committees on Appropriations and Energy and
14 Natural Resources of the Senate a report that, tak-
15 ing into consideration the results of the study, de-
16 scribes a feasible plan to implement a tamarisk con-
17 trol plan, as described in the Bureau of Reclamation
18 study entitled “Colorado River Basin Water Supply
19 and Demand Study” and dated December 2012, in-
20 cluding a description of applicable timelines and
21 costs.

22 (2) INCLUSIONS.—The report submitted under
23 paragraph (1) shall include—

24 (A) provisions for revegetating Federal
25 land with native vegetation;

1 (B) provisions for adapting to the increas-
2 ing presence of biological control in the Lower
3 Colorado River basin;

4 (C) provisions for removing saltcedar from
5 Federal land during post-wildfire recovery ac-
6 tivities;

7 (D) strategies for developing partnerships
8 with State, tribal, and local governmental enti-
9 ties in the eradication of saltcedar; and

10 (E) budget estimates and completion
11 timelines for the implementation of plan ele-
12 ments.

13 **SEC. 104. COLORADO RIVER SYSTEM.**

14 Title II of the Energy and Water Development and
15 Related Agencies Appropriations Act, 2015 (division D of
16 Public Law 113–235) is amended by striking section 206
17 (43 U.S.C. 620 note; 128 Stat. 2312) and inserting the
18 following:

19 **“SEC. 206. COLORADO RIVER SYSTEM.**

20 “(a) IN GENERAL.—Notwithstanding any other pro-
21 vision of law, as soon as practicable after the date of en-
22 actment of the Western Water Supply and Planning En-
23 hancement Act of 2016, the Secretary of the Interior (re-
24 ferred to in this section as the ‘Secretary’) shall—

1 “(1) fund or participate in projects to increase
2 Colorado River System water in Lake Mead and the
3 initial units of Colorado River Storage Project res-
4 ervoires, as authorized by the first section of the Act
5 of April 11, 1956 (commonly known as the ‘Colo-
6 rado River Storage Project Act’) (43 U.S.C. 620), to
7 address the effects of historic drought conditions;
8 and

9 “(2) not release or allow diversion of water in
10 the same calendar year that the water was volun-
11 tarily contributed to increase the active storage of
12 Lake Mead pursuant to—

13 “(A) the Memorandum of Understanding
14 among the United States of America, through
15 the Department of the Interior, Bureau of Rec-
16 lamation, the Central Arizona Water Conserva-
17 tion District, the Metropolitan Water District of
18 Southern California, the Southern Nevada
19 Water Authority, the Arizona Department of
20 Water Resources, the Colorado River Board of
21 California, and the Colorado River Commission
22 of Nevada for Pilot Drought Response Actions,
23 entered into December 10, 2014; or

24 “(B) the Pilot System Conservation pro-
25 gram carried out consistent with this section

1 (as in existence on the day before the date of
2 enactment of the Western Water Supply and
3 Planning Enhancement Act of 2016).

4 “(b) ADMINISTRATION.—Projects under this section
5 may be funded through—

6 “(1) grants by the Secretary to public entities
7 that use water from the Colorado River Basin for
8 municipal purposes for projects that are imple-
9 mented by one or more non-Federal entities; or

10 “(2) grants or other appropriate financial
11 agreements to provide additional funds for renewing
12 or implementing water conservation agreements that
13 are in existence on the date of enactment of the
14 Western Water Supply and Planning Enhancement
15 Act of 2016.

16 “(c) LIMITATION.—Funds in the Upper Colorado
17 River Basin Fund established by section 5 of the Act of
18 April 11, 1956 (commonly known as the ‘Colorado River
19 Storage Project Act’) (43 U.S.C. 620d), and the Lower
20 Colorado River Basin Development Fund established by
21 section 403 of the Colorado River Basin Project Act (43
22 U.S.C. 1543) shall not be used to carry out this section.

23 “(d) REPORT AND RECOMMENDATION.—Not later
24 than September 30, 2026, the Secretary shall submit to
25 the Committees on Appropriations and Natural Resources

1 of the House of Representatives and the Committees on
2 Appropriations and Energy and Natural Resources of the
3 Senate a report evaluating the effectiveness of the projects
4 described in subsection (a).

5 “(e) APPROPRIATIONS.—There is authorized to be
6 appropriated to the Bureau of Reclamation to carry out
7 this section \$10,000,000 for each of fiscal years 2017
8 through 2027, to remain available until expended.”.

9 **Subtitle B—Protecting Critical**
10 **Water Supply Watersheds**

11 **SEC. 111. DEFINITIONS.**

12 In this subtitle:

13 (1) CATEGORICAL EXCLUSION.—The term “cat-
14 egorical exclusion” means an exception to the re-
15 quirements of the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.) for a project
17 or activity relating to the management of National
18 Forest System land or public land.

19 (2) COLLABORATIVE PROCESS.—The term “col-
20 laborative process” means a process relating to the
21 management of National Forest System land or pub-
22 lic land by which a project or activity is developed
23 and implemented by the Secretary concerned
24 through collaboration with interested persons, as de-
25 scribed in section 603(b)(1)(C) of the Healthy For-

1 ests Restoration Act of 2003 (16 U.S.C.
2 6591b(b)(1)(C)).

3 (3) COMMUNITY WILDFIRE PROTECTION
4 PLAN.—The term “community wildfire protection
5 plan” has the meaning given that term in section
6 101 of the Healthy Forests Restoration Act of 2003
7 (16 U.S.C. 6511).

8 (4) FIRE BEHAVIOR MODEL.—The term “fire
9 behavior model” means a predictive model used by
10 the Forest Service or Bureau of Land Management
11 that—

12 (A) describes potential fire behavior;

13 (B) is capable of distinguishing among sur-
14 face fire, passive crown fire, and active crown
15 fire; and

16 (C) uses, at a minimum, the inputs of—

17 (i) existing vegetation;

18 (ii) potential weather; and

19 (iii) fuel moisture conditions.

20 (5) LAND USE PLAN.—The term “land use
21 plan” means—

22 (A) a land use plan prepared by the Bu-
23 reau of Land Management for public land pur-
24 suant to section 202 of the Federal Land Policy

1 and Management Act of 1976 (43 U.S.C.
2 1712); or

3 (B) a land and resource management plan
4 prepared by the Forest Service for a unit of the
5 National Forest System pursuant to section 6
6 of the Forest and Rangeland Renewable Re-
7 sources Planning Act of 1974 (16 U.S.C.
8 1604).

9 (6) MANAGEMENT ACTIVITY.—The term “man-
10 agement activity” means a project or activity carried
11 out by the Secretary concerned on National Forest
12 System land or public land in concert with the land
13 use plan covering the land.

14 (7) NATIONAL FIRE DANGER RATING SYS-
15 TEM.—The term “national fire danger rating sys-
16 tem” means the rating system used by the Forest
17 Service and the Bureau of Land Management that
18 communicates wildfire danger on a 5-category scale
19 of—

- 20 (A) low;
21 (B) moderate;
22 (C) high;
23 (D) very high; and
24 (E) extreme.

1 (8) NATIONAL FOREST SYSTEM.—The term
2 “National Forest System” has the meaning given
3 the term in section 11(a) of the Forest and Range-
4 land Renewable Resources Planning Act of 1974 (16
5 U.S.C. 1609(a)).

6 (9) PUBLIC LAND.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), the term “public land” has
9 the meaning given the term “public lands” in
10 section 103 of the Federal Land Policy and
11 Management Act of 1976 (43 U.S.C. 1702).

12 (B) EXCEPTION.—The term “public land”
13 includes Coos Bay Wagon Road Grant land and
14 Oregon and California Railroad Grant land.

15 (10) RESOURCE ADVISORY COMMITTEE.—The
16 term “resource advisory committee” means—

17 (A) a resource advisory committee (as de-
18 fined in section 201 of the Secure Rural
19 Schools and Community Self-Determination Act
20 of 2000 (16 U.S.C. 7121)), with respect to the
21 Forest Service; and

22 (B) an advisory council established under
23 section 309(a) of the Federal Land Policy and
24 Management Act of 1976 (43 U.S.C. 1739(a)),

1 with respect to the Bureau of Land Manage-
2 ment.

3 (11) SECRETARY CONCERNED.—The term
4 “Secretary concerned” means—

5 (A) the Secretary of Agriculture, with re-
6 spect to National Forest System land; and

7 (B) the Secretary of the Interior, with re-
8 spect to public land.

9 **SEC. 112. ANALYSIS OF ONLY TWO ALTERNATIVES IN PRO-**
10 **POSED COLLABORATIVE MANAGEMENT AC-**
11 **TIVITIES.**

12 (a) APPLICATION TO CERTAIN ENVIRONMENTAL AS-
13 SESSMENTS AND ENVIRONMENTAL IMPACT STATE-
14 MENTS.—This section shall apply whenever the Secretary
15 concerned prepares an environmental assessment or an en-
16 vironmental impact statement pursuant to section 102(2)
17 of the National Environmental Policy Act of 1969 (42
18 U.S.C. 4332(2)) for a project that meets the following cri-
19 teria:

20 (1) The primary purpose of the management
21 activity is—

22 (A) to address an insect or disease infesta-
23 tion;

24 (B) to reduce hazardous fuel loads;

1 (C) to control medusahead rye, cheatgrass,
2 or another noxious or invasive weed specified on
3 a Federal or State noxious weeds list;

4 (D) to protect a municipal water source;

5 (E) to maintain, enhance, or modify crit-
6 ical habitat to ensure protection from cata-
7 strophic disturbances;

8 (F) to increase water yield; or

9 (G) any combination of the purposes speci-
10 fied in subparagraphs (A) through (F).

11 (2) The management activity—

12 (A) is developed through a collaborative
13 process;

14 (B) is proposed by a resource advisory
15 committee;

16 (C) is covered by a community wildfire
17 protection plan; or

18 (D) covers an area—

19 (i) with a rating on the national fire
20 danger rating system of—

21 (I) high;

22 (II) very high; or

23 (III) extreme; and

24 (ii) in which not less than 50 percent
25 of the acres have a predicted potential fire

1 behavior, as determined using a fire behav-
2 ior model of—

3 (I) passive crown fire; or

4 (II) active crown fire.

5 (b) CONSIDERATION OF ALTERNATIVES.—In an envi-
6 ronmental assessment or environmental impact statement
7 described in subsection (a), the Secretary concerned shall
8 study, develop, and describe only the following two alter-
9 natives:

10 (1) The management activity, as proposed pur-
11 suant to subsection (a).

12 (2) The alternative of no action.

13 (c) ELEMENTS OF NONACTION ALTERNATIVE.—In
14 the case of the alternative of no action, the Secretary con-
15 cerned shall evaluate—

16 (1) the effect of no action on—

17 (A) forest or wildland health;

18 (B) habitat diversity;

19 (C) wildfire potential; and

20 (D) insect and disease potential; and

21 (2) the implications of a resulting decline in
22 forest or wildland health, loss of habitat diversity,
23 wildfire, spread of noxious or invasive weeds, or in-
24 sect or disease infestation, given fire and insect and
25 disease historic cycles, on—

- 1 (A) domestic water costs;
- 2 (B) wildlife habitat loss; and
- 3 (C) other economic and social factors.

4 **SEC. 113. CATEGORICAL EXCLUSION TO EXPEDITE CER-**
5 **TAIN CRITICAL RESPONSE ACTIONS.**

6 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
7 categorical exclusion is available to the Secretary con-
8 cerned to develop and carry out a management activity
9 on National Forest System land or public land if the pri-
10 mary purpose of the management activity is—

- 11 (1) to protect a municipal water source;
- 12 (2) to increase water yield;
- 13 (3) to reduce hazardous fuel loads;
- 14 (4) to control medusahead rye, cheatgrass, or
15 another noxious or invasive weed specified on a Fed-
16 eral or State noxious weeds list;
- 17 (5) to maintain, enhance, or modify critical
18 habitat to protect the habitat from catastrophic dis-
19 turbances; or
- 20 (6) any combination of the purposes specified in
21 paragraphs (1) through (5).

22 (b) ACREAGE LIMITATIONS.—

- 23 (1) IN GENERAL.—Except in the case of a man-
24 agement activity described in paragraph (2), a man-
25 agement activity covered by the categorical exclusion

1 granted by subsection (a) may not contain a project
2 exceeding a total of 5,000 acres.

3 (2) LARGER AREAS AUTHORIZED.—A manage-
4 ment activity covered by the categorical exclusion
5 granted by subsection (a) may not contain a project
6 exceeding a total of 15,000 acres if the management
7 activity—

8 (A) is developed through a collaborative
9 process;

10 (B) is proposed by a resource advisory
11 committee;

12 (C) is covered by a community wildfire
13 protection plan; or

14 (D) covers an area—

15 (i) with a rating on the national fire
16 danger rating system of—

17 (I) high;

18 (II) very high; or

19 (III) extreme; and

20 (ii) in which not less than 50 percent
21 of the acres have a predicted potential fire
22 behavior, as determined using a fire behav-
23 ior model, of—

24 (I) passive crown fire; or

25 (II) active crown fire.

1 **SEC. 114. COMPLIANCE WITH LAND USE PLAN.**

2 A management activity covered by a categorical ex-
3 clusion granted by this subtitle shall be conducted in a
4 manner consistent with the land use plan applicable to the
5 relevant National Forest System land or public land.

6 **Subtitle C—Bureau of Reclamation**
7 **Transparency Act**

8 **SEC. 121. SHORT TITLE.**

9 This subtitle may be cited as the “Bureau of Rec-
10 lamation Transparency Act”.

11 **SEC. 122. FINDINGS.**

12 Congress finds that—

13 (1) the water resources infrastructure of the
14 Bureau of Reclamation provides important benefits
15 related to irrigated agriculture, municipal and indus-
16 trial water, hydropower, flood control, fish and wild-
17 life, and recreation in the 17 Reclamation States;

18 (2) as of 2013, the combined replacement value
19 of the infrastructure assets of the Bureau of Rec-
20 lamation was \$94,500,000,000;

21 (3) the majority of the water resources infra-
22 structure facilities of the Bureau of Reclamation are
23 at least 60 years old;

24 (4) the Bureau of Reclamation has previously
25 undertaken efforts to better manage the assets of
26 the Bureau of Reclamation, including an annual re-

1 view of asset maintenance activities of the Bureau of
2 Reclamation known as the “Asset Management
3 Plan”; and

4 (5) actionable information on infrastructure
5 conditions at the asset level, including information
6 on maintenance needs at individual assets due to
7 aging infrastructure, is needed for Congress to con-
8 duct oversight of Reclamation facilities and meet the
9 needs of the public.

10 **SEC. 123. DEFINITIONS.**

11 In this subtitle:

12 (1) ASSET.—

13 (A) IN GENERAL.—The term “asset”
14 means any of the following assets that are used
15 to achieve the mission of the Bureau of Rec-
16 lamation to manage, develop, and protect water
17 and related resources in an environmentally and
18 economically sound manner in the interest of
19 the people of the United States:

20 (i) Capitalized facilities, buildings,
21 structures, project features, power produc-
22 tion equipment, recreation facilities, or
23 quarters.

1 (ii) Capitalized and noncapitalized
2 heavy equipment and other installed equip-
3 ment.

4 (B) INCLUSIONS.—The term “asset” in-
5 cludes assets described in subparagraph (A)
6 that are considered to be mission critical.

7 (2) ASSET MANAGEMENT REPORT.—The term
8 “Asset Management Report” means—

9 (A) the annual plan prepared by the Bu-
10 reau of Reclamation known as the “Asset Man-
11 agement Plan”; and

12 (B) any publicly available information re-
13 lating to the plan described in subparagraph
14 (A) that summarizes the efforts of the Bureau
15 of Reclamation to evaluate and manage infra-
16 structure assets of the Bureau of Reclamation.

17 (3) MAJOR REPAIR AND REHABILITATION
18 NEED.—The term “major repair and rehabilitation
19 need” means major nonrecurring maintenance at a
20 Reclamation facility, including maintenance related
21 to the safety of dams, extraordinary maintenance of
22 dams, deferred major maintenance activities, and all
23 other significant repairs and extraordinary mainte-
24 nance.

1 (4) RECLAMATION FACILITY.—The term “Rec-
2 lamation facility” means each of the infrastructure
3 assets that are owned by the Bureau of Reclamation
4 at a Reclamation project.

5 (5) RECLAMATION PROJECT.—The term “Rec-
6 lamation project” means a project that is owned by
7 the Bureau of Reclamation, including all reserved
8 works and transferred works owned by the Bureau
9 of Reclamation.

10 (6) RESERVED WORKS.—The term “reserved
11 works” means buildings, structures, facilities, or
12 equipment that are owned by the Bureau of Rec-
13 lamation for which operations and maintenance are
14 performed by employees of the Bureau of Reclama-
15 tion or through a contract entered into by the Bu-
16 reau of Reclamation, regardless of the source of
17 funding for the operations and maintenance.

18 (7) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (8) TRANSFERRED WORKS.—The term “trans-
21 ferred works” means a Reclamation facility at which
22 operations and maintenance of the facility is carried
23 out by a non-Federal entity under the provisions of
24 a formal operations and maintenance transfer con-

1 tract or other legal agreement with the Bureau of
2 Reclamation.

3 **SEC. 124. ASSET MANAGEMENT REPORT ENHANCEMENTS**
4 **FOR RESERVED WORKS.**

5 (a) IN GENERAL.—Not later than 2 years after the
6 date of enactment of this Act, the Secretary shall submit
7 to Congress an Asset Management Report that—

8 (1) describes the efforts of the Bureau of Rec-
9 lamation—

10 (A) to maintain in a reliable manner all re-
11 served works at Reclamation facilities; and

12 (B) to standardize and streamline data re-
13 porting and processes across regions and areas
14 for the purpose of maintaining reserved works
15 at Reclamation facilities; and

16 (2) expands on the information otherwise pro-
17 vided in an Asset Management Report, in accord-
18 ance with subsection (b).

19 (b) INFRASTRUCTURE MAINTENANCE NEEDS AS-
20 SESSMENT.—

21 (1) IN GENERAL.—The Asset Management Re-
22 port submitted under subsection (a) shall include—

23 (A) a detailed assessment of major repair
24 and rehabilitation needs for all reserved works
25 at all Reclamation projects; and

1 (B) to the extent practicable, an itemized
2 list of major repair and rehabilitation needs of
3 individual Reclamation facilities at each Rec-
4 lamation project.

5 (2) INCLUSIONS.—To the extent practicable,
6 the itemized list of major repair and rehabilitation
7 needs under paragraph (1)(B) shall include—

8 (A) a budget level cost estimate of the ap-
9 propriations needed to complete each item; and

10 (B) an assignment of a categorical rating
11 for each item, consistent with paragraph (3).

12 (3) RATING REQUIREMENTS.—

13 (A) IN GENERAL.—The system for assign-
14 ing ratings under paragraph (2)(B) shall be—

15 (i) consistent with existing uniform
16 categorization systems to inform the an-
17 nual budget process and agency require-
18 ments; and

19 (ii) subject to the guidance and in-
20 structions issued under subparagraph (B).

21 (B) GUIDANCE.—As soon as practicable
22 after the date of enactment of this Act, the Sec-
23 retary shall issue guidance that describes the
24 applicability of the rating system applicable

1 under paragraph (2)(B) to Reclamation facili-
2 ties.

3 (4) PUBLIC AVAILABILITY.—Except as provided
4 in paragraph (5), the Secretary shall make publicly
5 available, including on the Internet, the Asset Man-
6 agement Report required under subsection (a).

7 (5) CONFIDENTIALITY.—The Secretary may ex-
8 clude from the public version of the Asset Manage-
9 ment Report made available under paragraph (4)
10 any information that the Secretary identifies as sen-
11 sitive or classified, but shall make available to the
12 Committee on Energy and Natural Resources of the
13 Senate and the Committee on Natural Resources of
14 the House of Representatives a version of the report
15 containing the sensitive or classified information.

16 (c) UPDATES.—Not later than 2 years after the date
17 on which the Asset Management Report is submitted
18 under subsection (a) and biennially thereafter, the Sec-
19 retary shall update the Asset Management Report, subject
20 to the requirements of section 125(b)(2).

21 (d) CONSULTATION.—To the extent that such con-
22 sultation would assist the Secretary in preparing the Asset
23 Management Report under subsection (a) and updates to
24 the Asset Management Report under subsection (c), the
25 Secretary shall consult with—

1 (1) the Secretary of the Army (acting through
2 the Chief of Engineers); and

3 (2) water and power contractors.

4 **SEC. 125. ASSET MANAGEMENT REPORT ENHANCEMENTS**
5 **FOR TRANSFERRED WORKS.**

6 (a) IN GENERAL.—The Secretary shall coordinate
7 with the non-Federal entities responsible for the operation
8 and maintenance of transferred works in developing re-
9 porting requirements for Asset Management Reports with
10 respect to major repair and rehabilitation needs for trans-
11 ferred works that are similar to the reporting require-
12 ments described in section 124(b).

13 (b) GUIDANCE.—

14 (1) IN GENERAL.—After considering input from
15 water and power contractors of the Bureau of Rec-
16 lamation, the Secretary shall develop and implement
17 a rating system for transferred works that incor-
18 porates, to the maximum extent practicable, the rat-
19 ing system for major repair and rehabilitation needs
20 for reserved works developed under section
21 124(b)(3).

22 (2) UPDATES.—The ratings system developed
23 under paragraph (1) shall be included in the up-
24 dated Asset Management Reports under section
25 124(c).

1 **SEC. 126. OFFSET.**

2 Notwithstanding any other provision of law, in the
3 case of the project authorized by section 1617 of the Rec-
4 lamation Projects Authorization and Adjustment Act of
5 1992 (43 U.S.C. 390h–12c), the maximum amount of the
6 Federal share of the cost of the project under section
7 1631(d)(1) of that Act (43 U.S.C. 390h–13(d)(1)) other-
8 wise available as of the date of enactment of this Act shall
9 be reduced by \$2,000,000.

10 **Subtitle D—Water Supply**
11 **Permitting Act**

12 **SEC. 131. SHORT TITLE.**

13 This subtitle may be cited as the “Water Supply Per-
14 mitting Coordination Act”.

15 **SEC. 132. DEFINITIONS.**

16 In this subtitle:

17 (1) BUREAU.—The term “Bureau” means the
18 Bureau of Reclamation.

19 (2) COOPERATING AGENCIES.—The term “co-
20 operating agency” means a Federal agency with ju-
21 risdiction over a review, analysis, opinion, statement,
22 permit, license, or other approval or decision re-
23 quired for a qualifying project under applicable Fed-
24 eral laws and regulations, or a State agency subject
25 to section 133(c).

1 (3) QUALIFYING PROJECTS.—The term “quali-
 2 fying projects” means new surface water storage
 3 projects in the States covered under the Act of June
 4 17, 1902 (32 Stat. 388, chapter 1093), and Acts
 5 supplemental to and amendatory of that Act (43
 6 U.S.C. 371 et seq.) constructed on lands adminis-
 7 tered by the Department of the Interior or the De-
 8 partment of Agriculture, exclusive of any easement,
 9 right-of-way, lease, or any private holding.

10 (4) SECRETARY.—The term “Secretary” means
 11 the Secretary of the Interior.

12 **SEC. 133. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
 13 **ATING AGENCIES.**

14 (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-
 15 reau is established as the lead agency for purposes of co-
 16 ordinating all reviews, analyses, opinions, statements, per-
 17 mits, licenses, or other approvals or decisions required
 18 under Federal law to construct qualifying projects.

19 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-
 20 OPERATING AGENCIES.—The Commissioner of the Bureau
 21 shall—

22 (1) identify, as early as practicable upon receipt
 23 of an application for a qualifying project, any Fed-
 24 eral agency that may have jurisdiction over a review,
 25 analysis, opinion, statement, permit, license, ap-

1 proval, or decision required for a qualifying project
2 under applicable Federal laws and regulations; and

3 (2) notify any such agency, within a reasonable
4 timeframe, that the agency has been designated as
5 a cooperating agency in regards to the qualifying
6 project unless that agency responds to the Bureau in
7 writing, within a timeframe set forth by the Bureau,
8 notifying the Bureau that the agency—

9 (A) has no jurisdiction or authority with
10 respect to the qualifying project;

11 (B) has no expertise or information rel-
12 evant to the qualifying project or any review,
13 analysis, opinion, statement, permit, license, or
14 other approval or decision associated therewith;
15 or

16 (C) does not intend to submit comments
17 on the qualifying project or conduct any review
18 of such a project or make any decision with re-
19 spect to such project in a manner other than in
20 cooperation with the Bureau.

21 (c) STATE AUTHORITY.—A State in which a quali-
22 fying project is being considered may choose, consistent
23 with State law—

24 (1) to participate as a cooperating agency; and

1 (2) to make subject to the processes of this sub-
2 title all State agencies that—

3 (A) have jurisdiction over the qualifying
4 project;

5 (B) are required to conduct or issue a re-
6 view, analysis, or opinion for the qualifying
7 project; or

8 (C) are required to make a determination
9 on issuing a permit, license, or approval for the
10 qualifying project.

11 **SEC. 134. BUREAU RESPONSIBILITIES.**

12 (a) IN GENERAL.—The principal responsibilities of
13 the Bureau under this subtitle are—

14 (1) to serve as the point of contact for appli-
15 cants, State agencies, Indian tribes, and others re-
16 garding proposed qualifying projects;

17 (2) to coordinate preparation of unified environ-
18 mental documentation that will serve as the basis for
19 all Federal decisions necessary to authorize the use
20 of Federal lands for qualifying projects; and

21 (3) to coordinate all Federal agency reviews
22 necessary for project development and construction
23 of qualifying projects.

24 (b) COORDINATION PROCESS.—The Bureau shall
25 have the following coordination responsibilities:

1 (1) PREAPPLICATION COORDINATION.—Notify
2 cooperating agencies of proposed qualifying projects
3 not later than 30 days after receipt of a proposal
4 and facilitate a preapplication meeting for prospec-
5 tive applicants, relevant Federal and State agencies,
6 and Indian tribes—

7 (A) to explain applicable processes, data
8 requirements, and applicant submissions nec-
9 essary to complete the required Federal agency
10 reviews within the timeframe established; and

11 (B) to establish the schedule for the quali-
12 fying project.

13 (2) CONSULTATION WITH COOPERATING AGEN-
14 CIES.—Consult with the cooperating agencies
15 throughout the Federal agency review process, iden-
16 tify and obtain relevant data in a timely manner,
17 and set necessary deadlines for cooperating agencies.

18 (3) SCHEDULE.—Work with the qualifying
19 project applicant and cooperating agencies to estab-
20 lish a project schedule. In establishing the schedule,
21 the Bureau shall consider, among other factors—

22 (A) the responsibilities of cooperating
23 agencies under applicable laws and regulations;

1 (B) the resources available to the cooper-
2 ating agencies and the non-Federal qualifying
3 project sponsor, as applicable;

4 (C) the overall size and complexity of the
5 qualifying project;

6 (D) the overall schedule for and cost of the
7 qualifying project; and

8 (E) the sensitivity of the natural and his-
9 toric resources that may be affected by the
10 qualifying project.

11 (4) ENVIRONMENTAL COMPLIANCE.—Prepare a
12 unified environmental review document for each
13 qualifying project application, incorporating a single
14 environmental record on which all cooperating agen-
15 cies with authority to issue approvals for a given
16 qualifying project shall base project approval deci-
17 sions. Help ensure that cooperating agencies make
18 necessary decisions, within their respective authori-
19 ties, regarding Federal approvals in accordance with
20 the following timelines:

21 (A) Not later than 1 year after acceptance
22 of a completed project application when an en-
23 vironmental assessment and finding of no sig-
24 nificant impact is determined to be the appro-
25 priate level of review under the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321
2 et seq.).

3 (B) Not later than 1 year and 30 days
4 after the close of the public comment period for
5 a draft environmental impact statement under
6 the National Environmental Policy Act of 1969
7 (42 U.S.C. 4321 et seq.), when an environ-
8 mental impact statement is required under the
9 same.

10 (5) CONSOLIDATED ADMINISTRATIVE
11 RECORD.—Maintain a consolidated administrative
12 record of the information assembled and used by the
13 cooperating agencies as the basis for agency deci-
14 sions.

15 (6) PROJECT DATA RECORDS.—To the extent
16 practicable and consistent with Federal law, ensure
17 that all project data is submitted and maintained in
18 generally accessible electronic format, compile, and
19 where authorized under existing law, make available
20 such project data to cooperating agencies, the quali-
21 fying project applicant, and to the public.

22 (7) PROJECT MANAGER.—Appoint a project
23 manager for each qualifying project. The project
24 manager shall have authority to oversee the project
25 and to facilitate the issuance of the relevant final

1 authorizing documents, and shall be responsible for
2 ensuring fulfillment of all Bureau responsibilities set
3 forth in this section and all cooperating agency re-
4 sponsibilities under section 135.

5 **SEC. 135. COOPERATING AGENCY RESPONSIBILITIES.**

6 (a) ADHERENCE TO BUREAU SCHEDULE.—

7 (1) TIMEFRAMES.—On notification of an appli-
8 cation for a qualifying project, the head of each co-
9 operating agency shall submit to the Bureau a time-
10 frame under which the cooperating agency reason-
11 ably will be able to complete the authorizing respon-
12 sibilities of the cooperating agency.

13 (2) SCHEDULE.—

14 (A) USE OF TIMEFRAMES.—The Bureau
15 shall use the timeframes submitted under this
16 subsection to establish the project schedule
17 under section 134.

18 (B) ADHERENCE.—Each cooperating agen-
19 cy shall adhere to the project schedule estab-
20 lished by the Bureau under subparagraph (A).

21 (b) ENVIRONMENTAL RECORD.—The head of each
22 cooperating agency shall submit to the Bureau all environ-
23 mental review material produced or compiled in the course
24 of carrying out activities required under Federal law, con-

1 sistent with the project schedule established by the Bureau
2 under subsection (a)(2).

3 (c) DATA SUBMISSION.—To the extent practicable
4 and consistent with Federal law, the head of each cooper-
5 ating agency shall submit all relevant project data to the
6 Bureau in a generally accessible electronic format, subject
7 to the project schedule established by the Bureau under
8 subsection (a)(2).

9 **SEC. 136. FUNDING TO PROCESS PERMITS.**

10 (a) IN GENERAL.—The Secretary, after public notice
11 in accordance with subchapter II of chapter 5, and chapter
12 7, of title 5, United States Code (commonly known as the
13 “Administrative Procedure Act”), may accept and expend
14 funds contributed by a non-Federal public entity to expe-
15 dite the evaluation of a permit of that entity related to
16 a qualifying project.

17 (b) EFFECT ON PERMITTING.—

18 (1) IN GENERAL.—In carrying out this section,
19 the Secretary shall ensure that the use of funds ac-
20 cepted under subsection (a) will not substantively or
21 procedurally impact impartial decisionmaking with
22 respect to permits.

23 (2) EVALUATION OF PERMITS.—In carrying out
24 this section, the Secretary shall ensure that the eval-

1 uation of permits carried out using funds accepted
2 under this section shall—

3 (A) be reviewed by the Regional Director
4 of the Bureau of the region in which the quali-
5 fying project or activity is located (or a des-
6 ignee); and

7 (B) use the same procedures for decisions
8 that would otherwise be required for the evalua-
9 tion of permits for similar projects or activities
10 not carried out using funds authorized under
11 this section.

12 (3) IMPARTIAL DECISIONMAKING.—In carrying
13 out this section, the Secretary and the head of each
14 cooperating agency receiving funds under this sec-
15 tion for a qualifying project shall ensure that the use
16 of the funds accepted under this section for the
17 qualifying project shall not—

18 (A) substantively or procedurally impact
19 impartial decisionmaking with respect to the
20 issuance of permits; or

21 (B) diminish, modify, or otherwise affect
22 the statutory or regulatory authorities of the
23 cooperating agency.

24 (c) LIMITATION ON USE OF FUNDS.—None of the
25 funds accepted under this section shall be used to carry

1 out a review of the evaluation of permits required under
2 subsection (b)(2)(A).

3 (d) PUBLIC AVAILABILITY.—The Secretary shall en-
4 sure that all final permit decisions carried out using funds
5 authorized under this section are made available to the
6 public, including on the Internet.

7 **Subtitle E—Bureau of Reclamation** 8 **Project Streamlining Act**

9 **SEC. 141. SHORT TITLE.**

10 This subtitle may be cited as the “Bureau of Rec-
11 lamation Project Streamlining Act”.

12 **SEC. 142. DEFINITIONS.**

13 In this subtitle:

14 (1) ENVIRONMENTAL IMPACT STATEMENT.—

15 The term “environmental impact statement” means
16 the detailed statement of environmental impacts of
17 a project required to be prepared pursuant to the
18 National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.).

20 (2) ENVIRONMENTAL REVIEW PROCESS.—

21 (A) IN GENERAL.—The term “environ-
22 mental review process” means the process of
23 preparing an environmental impact statement,
24 environmental assessment, categorical exclusion,
25 or other document under the National Environ-

1 mental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.) for a project study.

3 (B) INCLUSIONS.—The term “environ-
4 mental review process” includes the process for
5 and completion of any environmental permit,
6 approval, review, or study required for a project
7 study under any Federal law other than the
8 National Environmental Policy Act of 1969 (42
9 U.S.C. 4321 et seq.).

10 (3) FEDERAL JURISDICTIONAL AGENCY.—The
11 term “Federal jurisdictional agency” means a Fed-
12 eral agency with jurisdiction delegated by law, regu-
13 lation, order, or otherwise over a review, analysis,
14 opinion, statement, permit, license, or other approval
15 or decision required for a project study under appli-
16 cable Federal laws (including regulations).

17 (4) FEDERAL LEAD AGENCY.—The term “Fed-
18 eral lead agency” means the Bureau of Reclamation.

19 (5) PROJECT.—The term “project” means a
20 surface water project, a project under the purview of
21 title XVI of Public Law 102–575, or a rural water
22 supply project investigated under Public Law 109–
23 451 to be carried out, funded or operated in whole
24 or in part by the Secretary pursuant to the Act of
25 June 17, 1902 (32 Stat. 388, chapter 1093), and

1 Acts supplemental to and amendatory of that Act
2 (43 U.S.C. 371 et seq.).

3 (6) PROJECT SPONSOR.—The term “project
4 sponsor” means a State, regional, or local authority
5 or instrumentality or other qualifying entity, such as
6 a water conservation district, irrigation district,
7 water conservancy district, joint powers authority,
8 mutual water company, canal company, rural water
9 district or association, or any other entity that has
10 the capacity to contract with the United States
11 under Federal reclamation law.

12 (7) PROJECT STUDY.—The term “project
13 study” means a feasibility study for a project carried
14 out pursuant to the Act of June 17, 1902 (32 Stat.
15 388, chapter 1093), and Acts supplemental to and
16 amendatory of that Act (43 U.S.C. 371 et seq.).

17 (8) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (9) SURFACE WATER STORAGE.—The term
20 “surface water storage” means any surface water
21 reservoir or impoundment that would be owned,
22 funded or operated in whole or in part by the Bu-
23 reau of Reclamation or that would be integrated into
24 a larger system owned, operated or administered in
25 whole or in part by the Bureau of Reclamation.

1 **SEC. 143. ACCELERATION OF STUDIES.**

2 (a) IN GENERAL.—To the extent practicable, a
3 project study initiated by the Secretary, after the date of
4 enactment of this Act, under the Reclamation Act of 1902
5 (32 Stat. 388), and all Acts amendatory thereof or supple-
6 mentary thereto, shall—

7 (1) result in the completion of a final feasibility
8 report not later than 3 years after the date of initi-
9 ation;

10 (2) have a maximum Federal cost of
11 \$3,000,000; and

12 (3) ensure that personnel from the local project
13 area, region, and headquarters levels of the Bureau
14 of Reclamation concurrently conduct the review re-
15 quired under this section.

16 (b) EXTENSION.—If the Secretary determines that a
17 project study described in subsection (a) will not be con-
18 ducted in accordance with subsection (a), the Secretary,
19 not later than 30 days after the date of making the deter-
20 mination, shall—

21 (1) prepare an updated project study schedule
22 and cost estimate;

23 (2) notify the non-Federal project cost-sharing
24 partner that the project study has been delayed; and

25 (3) provide written notice to the Committee on
26 Natural Resources of the House of Representatives

1 and the Committee on Energy and Natural Re-
2 sources of the Senate as to the reasons the require-
3 ments of subsection (a) are not attainable.

4 (c) EXCEPTION.—

5 (1) IN GENERAL.—Notwithstanding the re-
6 quirements of subsection (a), the Secretary may ex-
7 tend the timeline of a project study by a period not
8 to exceed 3 years, if the Secretary determines that
9 the project study is too complex to comply with the
10 requirements of subsection (a).

11 (2) FACTORS.—In making a determination that
12 a study is too complex to comply with the require-
13 ments of subsection (a), the Secretary shall con-
14 sider—

15 (A) the type, size, location, scope, and
16 overall cost of the project;

17 (B) whether the project will use any inno-
18 vative design or construction techniques;

19 (C) whether the project will require signifi-
20 cant action by other Federal, State, or local
21 agencies;

22 (D) whether there is significant public dis-
23 pute as to the nature or effects of the project;
24 and

1 (E) whether there is significant public dis-
2 pute as to the economic or environmental costs
3 or benefits of the project.

4 (3) NOTIFICATION.—Each time the Secretary
5 makes a determination under this subsection, the
6 Secretary shall provide written notice to the Com-
7 mittee on Natural Resources of the House of Rep-
8 resentatives and the Committee on Energy and Nat-
9 ural Resources of the Senate as to the results of
10 that determination, including an identification of the
11 specific one or more factors used in making the de-
12 termination that the project is complex.

13 (4) LIMITATION.—The Secretary shall not ex-
14 tend the timeline for a project study for a period of
15 more than 7 years, and any project study that is not
16 completed before that date shall no longer be au-
17 thorized.

18 (d) REVIEWS.—Not later than 90 days after the date
19 of the initiation of a project study described in subsection
20 (a), the Secretary shall—

21 (1) take all steps necessary to initiate the proc-
22 ess for completing federally mandated reviews that
23 the Secretary is required to complete as part of the
24 study, including the environmental review process
25 under section 145;

1 (2) convene a meeting of all Federal, tribal, and
2 State agencies identified under section 145(d) that
3 may—

4 (A) have jurisdiction over the project;

5 (B) be required by law to conduct or issue
6 a review, analysis, opinion, or statement for the
7 project study; or

8 (C) be required to make a determination
9 on issuing a permit, license, or other approval
10 or decision for the project study; and

11 (3) take all steps necessary to provide informa-
12 tion that will enable required reviews and analyses
13 related to the project to be conducted by other agen-
14 cies in a thorough and timely manner.

15 (e) INTERIM REPORT.—Not later than 18 months
16 after the date of enactment of this Act, the Secretary shall
17 submit to the Committee on Natural Resources of the
18 House of Representatives and the Committee on Energy
19 and Natural Resources of the Senate and make publicly
20 available a report that describes—

21 (1) the status of the implementation of the
22 planning process under this section, including the
23 number of participating projects;

24 (2) a review of project delivery schedules, in-
25 cluding a description of any delays on those studies

1 initiated prior to the date of enactment of this Act;
2 and

3 (3) any recommendations for additional author-
4 ity necessary to support efforts to expedite the
5 project.

6 (f) FINAL REPORT.—Not later than 4 years after the
7 date of enactment of this Act, the Secretary shall submit
8 to the Committee on Natural Resources of the House of
9 Representatives and the Committee on Energy and Nat-
10 ural Resources of the Senate and make publicly available
11 a report that describes—

12 (1) the status of the implementation of this sec-
13 tion, including a description of each project study
14 subject to the requirements of this section;

15 (2) the period of time required to complete each
16 project study; and

17 (3) any recommendations for additional author-
18 ity necessary to support efforts to expedite the
19 project study process, including an analysis of
20 whether the limitation established by subsection
21 (a)(2) needs to be adjusted to address the impacts
22 of inflation.

23 **SEC. 144. EXPEDITED COMPLETION OF REPORTS.**

24 The Secretary shall—

1 (1) expedite the completion of any ongoing
2 project study initiated before the date of enactment
3 of this Act; and

4 (2) if the Secretary determines that the project
5 is justified in a completed report, proceed directly to
6 preconstruction planning, engineering, and design of
7 the project in accordance with the Reclamation Act
8 of 1902 (32 Stat. 388), and all Acts amendatory
9 thereof or supplementary thereto.

10 **SEC. 145. PROJECT ACCELERATION.**

11 (a) APPLICABILITY.—

12 (1) IN GENERAL.—This section shall apply to—

13 (A) each project study that is initiated
14 after the date of enactment of this Act and for
15 which an environmental impact statement is
16 prepared under the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

18 (B) the extent determined appropriate by
19 the Secretary, to other project studies initiated
20 before the date of enactment of this Act and for
21 which an environmental review process docu-
22 ment is prepared under the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et
24 seq.); and

1 (C) any project study for the development
2 of a nonfederally owned and operated surface
3 water storage project for which the Secretary
4 determines there is a demonstrable Federal in-
5 terest and the project—

6 (i) is located in a river basin where
7 other Bureau of Reclamation water
8 projects are located;

9 (ii) will create additional water sup-
10 plies that support Bureau of Reclamation
11 water projects; or

12 (iii) will become integrated into the
13 operation of Bureau of Reclamation water
14 projects.

15 (2) FLEXIBILITY.—Any authority granted
16 under this section may be exercised, and any re-
17 quirement established under this section may be sat-
18 isfied, for the conduct of an environmental review
19 process for a project study, a class of project stud-
20 ies, or a program of project studies.

21 (3) LIST OF PROJECT STUDIES.—

22 (A) IN GENERAL.—The Secretary shall an-
23 nually prepare, and make publicly available, a
24 list of all project studies that the Secretary has
25 determined—

1 (i) meets the standards described in
2 paragraph (1); and

3 (ii) does not have adequate funding to
4 make substantial progress toward the com-
5 pletion of the project study.

6 (B) INCLUSIONS.—The Secretary shall in-
7 clude for each project study on the list under
8 subparagraph (A) a description of the estimated
9 amounts necessary to make substantial progress
10 on the project study.

11 (b) PROJECT REVIEW PROCESS.—

12 (1) IN GENERAL.—The Secretary shall develop
13 and implement a coordinated environmental review
14 process for the development of project studies.

15 (2) COORDINATED REVIEW.—The coordinated
16 environmental review process described in paragraph
17 (1) shall require that any review, analysis, opinion,
18 statement, permit, license, or other approval or deci-
19 sion issued or made by a Federal, State, or local
20 governmental agency or an Indian tribe for a project
21 study described in subsection (a) be conducted, to
22 the maximum extent practicable, concurrently with
23 any other applicable governmental agency or Indian
24 tribe.

1 (3) TIMING.—The coordinated environmental
2 review process under this subsection shall be com-
3 pleted not later than the date on which the Sec-
4 retary, in consultation and concurrence with the
5 agencies identified under section 145(d), establishes
6 with respect to the project study.

7 (c) LEAD AGENCIES.—

8 (1) JOINT LEAD AGENCIES.—

9 (A) IN GENERAL.—Subject to the require-
10 ments of the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.) and the
12 requirements of section 1506.8 of title 40, Code
13 of Federal Regulations (or a successor regula-
14 tion), including the concurrence of the proposed
15 joint lead agency, a project sponsor may serve
16 as the joint lead agency.

17 (B) PROJECT SPONSOR AS JOINT LEAD
18 AGENCY.—A project sponsor that is a State or
19 local governmental entity may—

20 (i) with the concurrence of the Sec-
21 retary, serve as a joint lead agency with
22 the Federal lead agency for purposes of
23 preparing any environmental document
24 under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.); and

1 (ii) prepare any environmental review
2 process document under the National En-
3 vironmental Policy Act of 1969 (42 U.S.C.
4 4321 et seq.) required in support of any
5 action or approval by the Secretary if—

6 (I) the Secretary provides guid-
7 ance in the preparation process and
8 independently evaluates that docu-
9 ment;

10 (II) the project sponsor complies
11 with all requirements applicable to the
12 Secretary under—

13 (aa) the National Environ-
14 mental Policy Act of 1969 (42
15 U.S.C. 4321 et seq.);

16 (bb) any regulation imple-
17 menting that Act; and

18 (cc) any other applicable
19 Federal law; and

20 (III) the Secretary approves and
21 adopts the document before the Sec-
22 retary takes any subsequent action or
23 makes any approval based on that
24 document, regardless of whether the

1 action or approval of the Secretary re-
2 sults in Federal funding.

3 (2) DUTIES.—The Secretary shall ensure
4 that—

5 (A) the project sponsor complies with all
6 design and mitigation commitments made joint-
7 ly by the Secretary and the project sponsor in
8 any environmental document prepared by the
9 project sponsor in accordance with this sub-
10 section; and

11 (B) any environmental document prepared
12 by the project sponsor is appropriately supple-
13 mented to address any changes to the project
14 the Secretary determines are necessary.

15 (3) ADOPTION AND USE OF DOCUMENTS.—Any
16 environmental document prepared in accordance
17 with this subsection shall be adopted and used by
18 any Federal agency making any determination re-
19 lated to the project study to the same extent that
20 the Federal agency could adopt or use a document
21 prepared by another Federal agency under—

22 (A) the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4321 et seq.); and

1 (B) parts 1500 through 1508 of title 40,
2 Code of Federal Regulations (or successor regu-
3 lations).

4 (4) ROLES AND RESPONSIBILITY OF LEAD
5 AGENCY.—With respect to the environmental review
6 process for any project study, the Federal lead agen-
7 cy shall have authority and responsibility—

8 (A) to take such actions as are necessary
9 and proper and within the authority of the Fed-
10 eral lead agency to facilitate the expeditious
11 resolution of the environmental review process
12 for the project study; and

13 (B) to prepare or ensure that any required
14 environmental impact statement or other envi-
15 ronmental review document for a project study
16 required to be completed under the National
17 Environmental Policy Act of 1969 (42 U.S.C.
18 4321 et seq.) is completed in accordance with
19 this section and applicable Federal law.

20 (d) PARTICIPATING AND COOPERATING AGENCIES.—

21 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
22 CIES.—With respect to carrying out the environ-
23 mental review process for a project study, the Sec-
24 retary shall identify, as early as practicable in the
25 environmental review process, all Federal, State, and

1 local government agencies and Indian tribes that
2 may—

3 (A) have jurisdiction over the project;

4 (B) be required by law to conduct or issue
5 a review, analysis, opinion, or statement for the
6 project study; or

7 (C) be required to make a determination
8 on issuing a permit, license, or other approval
9 or decision for the project study.

10 (2) STATE AUTHORITY.—If the environmental
11 review process is being implemented by the Sec-
12 retary for a project study within the boundaries of
13 a State, the State, consistent with State law, may
14 choose to participate in the process and to make
15 subject to the process all State agencies that—

16 (A) have jurisdiction over the project;

17 (B) are required to conduct or issue a re-
18 view, analysis, opinion, or statement for the
19 project study; or

20 (C) are required to make a determination
21 on issuing a permit, license, or other approval
22 or decision for the project study.

23 (3) INVITATION.—

24 (A) IN GENERAL.—The Federal lead agen-
25 cy shall invite, as early as practicable in the en-

1 vironmental review process, any agency identi-
2 fied under paragraph (1) to become a partici-
3 pating or cooperating agency, as applicable, in
4 the environmental review process for the project
5 study.

6 (B) DEADLINE.—An invitation to partici-
7 pate issued under subparagraph (A) shall set a
8 deadline by which a response to the invitation
9 shall be submitted, which may be extended by
10 the Federal lead agency for good cause.

11 (4) PROCEDURES.—Section 1501.6 of title 40,
12 Code of Federal Regulations (as in effect on the
13 date of enactment of this Act), shall govern the iden-
14 tification and the participation of a cooperating
15 agency.

16 (5) FEDERAL COOPERATING AGENCIES.—Any
17 Federal agency that is invited by the Federal lead
18 agency to participate in the environmental review
19 process for a project study shall be designated as a
20 cooperating agency by the Federal lead agency un-
21 less the invited agency informs the Federal lead
22 agency, in writing, by the deadline specified in the
23 invitation that the invited agency—

24 (A)(i) has no jurisdiction or authority with
25 respect to the project;

1 (ii) has no expertise or information rel-
2 evant to the project; or

3 (iii) does not have adequate funds to par-
4 ticipate in the project; and

5 (B) does not intend to submit comments
6 on the project.

7 (6) ADMINISTRATION.—A participating or co-
8 operating agency shall comply with this section and
9 any schedule established under this section.

10 (7) EFFECT OF DESIGNATION.—Designation as
11 a participating or cooperating agency under this
12 subsection shall not imply that the participating or
13 cooperating agency—

14 (A) supports a proposed project; or

15 (B) has any jurisdiction over, or special ex-
16 pertise with respect to evaluation of, the
17 project.

18 (8) CONCURRENT REVIEWS.—Each partici-
19 pating or cooperating agency shall—

20 (A) carry out the obligations of that agen-
21 cy under other applicable law concurrently and
22 in conjunction with the required environmental
23 review process, unless doing so would prevent
24 the participating or cooperating agency from

1 conducting needed analysis or otherwise car-
2 rying out those obligations; and

3 (B) formulate and implement administra-
4 tive, policy, and procedural mechanisms to en-
5 able the agency to ensure completion of the en-
6 vironmental review process in a timely, coordi-
7 nated, and environmentally responsible manner.

8 (e) NON-FEDERAL PROJECTS INTEGRATED INTO
9 RECLAMATION SYSTEMS.—The Federal lead agency shall
10 serve in that capacity for the entirety of all non-Federal
11 projects that will be integrated into a larger system owned,
12 operated or administered in whole or in part by the Bu-
13 reau of Reclamation.

14 (f) NON-FEDERAL PROJECT.—If the Secretary deter-
15 mines that a project can be expedited by a non-Federal
16 sponsor, and that there is a demonstrable Federal interest
17 in expediting that project, the Secretary shall take such
18 actions as are necessary to advance the project as a non-
19 Federal project, including entering into agreements with
20 the non-Federal sponsor of the project to support the
21 planning, design, and permitting of the project as a non-
22 Federal project.

23 (g) PROGRAMMATIC COMPLIANCE.—

24 (1) IN GENERAL.—The Secretary shall issue
25 guidance regarding the use of programmatic ap-

1 proaches to carry out the environmental review proc-
2 ess that—

3 (A) eliminates repetitive discussions of the
4 same issues;

5 (B) focuses on the actual issues ripe for
6 analyses at each level of review;

7 (C) establishes a formal process for coordi-
8 nating with participating and cooperating agen-
9 cies, including the creation of a list of all data
10 that are needed to carry out an environmental
11 review process; and

12 (D) complies with—

13 (i) the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et seq.); and

15 (ii) all other applicable laws.

16 (2) REQUIREMENTS.—In carrying out para-
17 graph (1), the Secretary shall—

18 (A) as the first step in drafting guidance
19 under that paragraph, consult with relevant
20 Federal, State, and local governmental agen-
21 cies, Indian tribes, and the public on the appro-
22 priate use and scope of the programmatic ap-
23 proaches;

24 (B) emphasize the importance of collabora-
25 tion among relevant Federal, State, and local

1 governmental agencies, and Indian tribes in un-
2 dertaking programmatic reviews, especially with
3 respect to including reviews with a broad geo-
4 graphical scope;

5 (C) ensure that the programmatic re-
6 views—

7 (i) promote transparency, including of
8 the analyses and data used in the environ-
9 mental review process, the treatment of
10 any deferred issues raised by Federal,
11 State, and local governmental agencies, In-
12 dian tribes, or the public, and the temporal
13 and special scales to be used to analyze
14 those issues;

15 (ii) use accurate and timely informa-
16 tion in the environmental review process,
17 including—

18 (I) criteria for determining the
19 general duration of the usefulness of
20 the review; and

21 (II) the timeline for updating any
22 out-of-date review;

23 (iii) describe—

1 (I) the relationship between pro-
2 grammatic analysis and future tiered
3 analysis; and

4 (II) the role of the public in the
5 creation of future tiered analysis; and

6 (iv) are available to other relevant
7 Federal, State, and local governmental
8 agencies, Indian tribes, and the public;

9 (D) allow not fewer than 60 days of public
10 notice and comment on any proposed guidance;
11 and

12 (E) address any comments received under
13 subparagraph (D).

14 (h) COORDINATED REVIEWS.—

15 (1) COORDINATION PLAN.—

16 (A) ESTABLISHMENT.—The Federal lead
17 agency shall, after consultation with and with
18 the concurrence of each participating and co-
19 operating agency and the project sponsor or
20 joint lead agency, as applicable, establish a plan
21 for coordinating public and agency participation
22 in, and comment on, the environmental review
23 process for a project study or a category of
24 project studies.

25 (B) SCHEDULE.—

1 (i) IN GENERAL.—As soon as prac-
2 ticable but not later than 45 days after the
3 close of the public comment period on a
4 draft environmental impact statement, the
5 Federal lead agency, after consultation
6 with and the concurrence of each partici-
7 pating and cooperating agency and the
8 project sponsor or joint lead agency, as ap-
9 plicable, shall establish, as part of the co-
10 ordination plan established in subpara-
11 graph (A), a schedule for completion of the
12 environmental review process for the
13 project study.

14 (ii) FACTORS FOR CONSIDERATION.—
15 In establishing a schedule, the Secretary
16 shall consider factors such as—

17 (I) the responsibilities of partici-
18 pating and cooperating agencies under
19 applicable laws;

20 (II) the resources available to the
21 project sponsor, joint lead agency, and
22 other relevant Federal and State
23 agencies, as applicable;

24 (III) the overall size and com-
25 plexity of the project;

1 (IV) the overall schedule for and
2 cost of the project; and

3 (V) the sensitivity of the natural
4 and historical resources that could be
5 affected by the project.

6 (iii) MODIFICATIONS.—The Secretary
7 may—

8 (I) lengthen a schedule estab-
9 lished under clause (i) for good cause;
10 and

11 (II) shorten a schedule only with
12 concurrence of the affected partici-
13 pating and cooperating agencies and
14 the project sponsor or joint lead agen-
15 cy, as applicable.

16 (iv) DISSEMINATION.—A copy of a
17 schedule established under clause (i) shall
18 be—

19 (I) provided to each participating
20 and cooperating agency and the
21 project sponsor or joint lead agency,
22 as applicable; and

23 (II) made available to the public.

24 (2) COMMENT DEADLINES.—The Federal lead
25 agency shall establish the following deadlines for

1 comment during the environmental review process
2 for a project study:

3 (A) DRAFT ENVIRONMENTAL IMPACT
4 STATEMENTS.—For comments by Federal and
5 State agencies and the public on a draft envi-
6 ronmental impact statement, a period of not
7 more than 60 days after publication in the Fed-
8 eral Register of notice of the date of public
9 availability of the draft environmental impact
10 statement, unless—

11 (i) a different deadline is established
12 by agreement of the Federal lead agency,
13 the project sponsor or joint lead agency, as
14 applicable, and all participating and co-
15 operating agencies; or

16 (ii) the deadline is extended by the
17 Federal lead agency for good cause.

18 (B) OTHER ENVIRONMENTAL REVIEW
19 PROCESSES.—For all other comment periods es-
20 tablished by the Federal lead agency for agency
21 or public comments in the environmental review
22 process, a period of not more than 30 days
23 after the date on which the materials on which
24 comment is requested are made available, un-
25 less—

1 (i) a different deadline is established
2 by agreement of the Federal lead agency,
3 the project sponsor, or joint lead agency,
4 as applicable, and all participating and co-
5 operating agencies; or

6 (ii) the deadline is extended by the
7 Federal lead agency for good cause.

8 (3) DEADLINES FOR DECISIONS UNDER OTHER
9 LAWS.—In any case in which a decision under any
10 Federal law relating to a project study, including the
11 issuance or denial of a permit or license, is required
12 to be made by the date described in subsection
13 (i)(5)(B), the Secretary shall submit to the Com-
14 mittee on Natural Resources of the House of Rep-
15 resentatives and the Committee on Energy and Nat-
16 ural Resources of the Senate—

17 (A) as soon as practicable after the 180-
18 day period described in subsection (i)(5)(B), an
19 initial notice of the failure of the Federal agen-
20 cy to make the decision; and

21 (B) every 60 days thereafter until the date
22 on which all decisions of the Federal agency re-
23 lating to the project study have been made by
24 the Federal agency, an additional notice that
25 describes the number of decisions of the Fed-

1 eral agency that remain outstanding as of the
2 date of the additional notice.

3 (4) INVOLVEMENT OF THE PUBLIC.—Nothing
4 in this subsection reduces any time period provided
5 for public comment in the environmental review
6 process under applicable Federal law (including reg-
7 ulations).

8 (5) TRANSPARENCY REPORTING.—

9 (A) REPORTING REQUIREMENTS.—Not
10 later than 1 year after the date of enactment of
11 this Act, the Secretary shall establish and main-
12 tain an electronic database and, in coordination
13 with other Federal and State agencies, issue re-
14 porting requirements to make publicly available
15 the status and progress with respect to compli-
16 ance with applicable requirements of the Na-
17 tional Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) and any other Federal,
19 State, or local approval or action required for a
20 project study for which this section is applica-
21 ble.

22 (B) PROJECT STUDY TRANSPARENCY.—
23 Consistent with the requirements established
24 under subparagraph (A), the Secretary shall
25 make publicly available the status and progress

1 of any Federal, State, or local decision, action,
2 or approval required under applicable laws for
3 each project study for which this section is ap-
4 plicable.

5 (i) ISSUE IDENTIFICATION AND RESOLUTION.—

6 (1) COOPERATION.—The Federal lead agency,
7 the cooperating agencies, and any participating
8 agencies shall work cooperatively in accordance with
9 this section to identify and resolve issues that could
10 delay completion of the environmental review process
11 or result in the denial of any approval required for
12 the project study under applicable laws.

13 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
14 ITIES.—

15 (A) IN GENERAL.—The Federal lead agen-
16 cy shall make information available to the co-
17 operating agencies and participating agencies as
18 early as practicable in the environmental review
19 process regarding the environmental and socio-
20 economic resources located within the project
21 area and the general locations of the alter-
22 natives under consideration.

23 (B) DATA SOURCES.—The information
24 under subparagraph (A) may be based on exist-

1 ing data sources, including geographic informa-
2 tion systems mapping.

3 (3) COOPERATING AND PARTICIPATING AGENCY
4 RESPONSIBILITIES.—Based on information received
5 from the Federal lead agency, cooperating and par-
6 ticipating agencies shall identify, as early as prac-
7 ticable, any issues of concern regarding the potential
8 environmental or socioeconomic impacts of the
9 project, including any issues that could substantially
10 delay or prevent an agency from granting a permit
11 or other approval that is needed for the project
12 study.

13 (4) ACCELERATED ISSUE RESOLUTION AND
14 ELEVATION.—

15 (A) IN GENERAL.—On the request of a
16 participating or cooperating agency or project
17 sponsor, the Secretary shall convene an issue
18 resolution meeting with the relevant partici-
19 pating and cooperating agencies and the project
20 sponsor or joint lead agency, as applicable, to
21 resolve issues that may—

22 (i) delay completion of the environ-
23 mental review process; or

1 (ii) result in denial of any approval re-
2 quired for the project study under applica-
3 ble laws.

4 (B) MEETING DATE.—A meeting requested
5 under this paragraph shall be held not later
6 than 21 days after the date on which the Sec-
7 retary receives the request for the meeting, un-
8 less the Secretary determines that there is good
9 cause to extend that deadline.

10 (C) NOTIFICATION.—On receipt of a re-
11 quest for a meeting under this paragraph, the
12 Secretary shall notify all relevant participating
13 and cooperating agencies of the request, includ-
14 ing the issue to be resolved and the date for the
15 meeting.

16 (D) ELEVATION OF ISSUE RESOLUTION.—
17 If a resolution cannot be achieved within the
18 30-day period beginning on the date of a meet-
19 ing under this paragraph and a determination
20 is made by the Secretary that all information
21 necessary to resolve the issue has been ob-
22 tained, the Secretary shall forward the dispute
23 to the heads of the relevant agencies for resolu-
24 tion.

1 (E) CONVENTION BY SECRETARY.—The
2 Secretary may convene an issue resolution
3 meeting under this paragraph at any time, at
4 the discretion of the Secretary, regardless of
5 whether a meeting is requested under subpara-
6 graph (A).

7 (5) FINANCIAL PENALTY PROVISIONS.—

8 (A) IN GENERAL.—A Federal jurisdictional
9 agency shall complete any required approval or
10 decision for the environmental review process
11 on an expeditious basis using the shortest exist-
12 ing applicable process.

13 (B) FAILURE TO DECIDE.—

14 (i) IN GENERAL.—

15 (I) TRANSFER OF FUNDS.—If a
16 Federal jurisdictional agency fails to
17 render a decision required under any
18 Federal law relating to a project study
19 that requires the preparation of an
20 environmental impact statement or
21 environmental assessment, including
22 the issuance or denial of a permit, li-
23 cense, statement, opinion, or other ap-
24 proval by the date described in clause
25 (ii), the amount of funds made avail-

1 able to support the office of the head
2 of the Federal jurisdictional agency
3 shall be reduced by an amount of
4 funding equal to the amount specified
5 in item (aa) or (bb) of subclause (II),
6 and those funds shall be made avail-
7 able to the division of the Federal ju-
8 risdictional agency charged with ren-
9 dering the decision by not later than
10 1 day after the applicable date under
11 clause (ii), and once each week there-
12 after until a final decision is rendered,
13 subject to subparagraph (C).

14 (II) AMOUNT TO BE TRANS-
15 FERRED.—The amount referred to in
16 subclause (I) is—

17 (aa) \$20,000 for any project
18 study requiring the preparation
19 of an environmental assessment
20 or environmental impact state-
21 ment; or

22 (bb) \$10,000 for any project
23 study requiring any type of re-
24 view under the National Environ-
25 mental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) other than
2 an environmental assessment or
3 environmental impact statement.

4 (ii) DESCRIPTION OF DATE.—The
5 date referred to in clause (i) is the later
6 of—

7 (I) the date that is 180 days
8 after the date on which an application
9 for the permit, license, or approval is
10 complete; and

11 (II) the date that is 180 days
12 after the date on which the Federal
13 lead agency issues a decision on the
14 project under the National Environ-
15 mental Policy Act of 1969 (42 U.S.C.
16 4321 et seq.).

17 (C) LIMITATIONS.—

18 (i) IN GENERAL.—No transfer of
19 funds under subparagraph (B) relating to
20 an individual project study shall exceed, in
21 any fiscal year, an amount equal to 1 per-
22 cent of the funds made available for the
23 applicable agency office.

24 (ii) FAILURE TO DECIDE.—The total
25 amount transferred in a fiscal year as a re-

1 sult of a failure by an agency to make a
2 decision by an applicable deadline shall not
3 exceed an amount equal to 5 percent of the
4 funds made available for the applicable
5 agency office for that fiscal year.

6 (iii) AGGREGATE.—Notwithstanding
7 any other provision of law, for each fiscal
8 year, the aggregate amount of financial
9 penalties assessed against each applicable
10 agency office under this Act and any other
11 Federal law as a result of a failure of the
12 agency to make a decision by an applicable
13 deadline for environmental review, includ-
14 ing the total amount transferred under this
15 paragraph, shall not exceed an amount
16 equal to 9.5 percent of the funds made
17 available for the agency office for that fis-
18 cal year.

19 (D) NOTIFICATION OF TRANSFERS.—Not
20 later than 10 days after the last date in a fiscal
21 year on which funds of the Federal jurisdic-
22 tional agency may be transferred under sub-
23 paragraph (B) with respect to an individual de-
24 cision, the agency shall submit to the appro-
25 priate committees of the House of Representa-

1 tives and the Senate written notification that
2 includes a description of—

3 (i) the decision;

4 (ii) the project study involved;

5 (iii) the amount of each transfer
6 under subparagraph (B) in that fiscal year
7 relating to the decision;

8 (iv) the total amount of all transfers
9 under subparagraph (B) in that fiscal year
10 relating to the decision; and

11 (v) the total amount of all transfers of
12 the agency under subparagraph (B) in that
13 fiscal year.

14 (E) NO FAULT OF AGENCY.—

15 (i) IN GENERAL.—A transfer of funds
16 under this paragraph shall not be made if
17 the applicable agency described in subpara-
18 graph (A) notifies, with a supporting ex-
19 planation, the Federal lead agency, cooper-
20 ating agencies, and project sponsor, as ap-
21 plicable, that—

22 (I) the agency has not received
23 necessary information or approvals
24 from another entity in a manner that
25 affects the ability of the agency to

1 meet any requirements under Federal,
2 State, or local law;

3 (II) significant new information,
4 including from public comments, or
5 circumstances, including a major
6 modification to an aspect of the
7 project, requires additional analysis
8 for the agency to make a decision on
9 the project application; or

10 (III) the agency lacks the finan-
11 cial resources to complete the review
12 under the scheduled timeframe, in-
13 cluding a description of the number of
14 full-time employees required to com-
15 plete the review, the amount of fund-
16 ing required to complete the review,
17 and a justification as to why not
18 enough funding is available to com-
19 plete the review by the deadline.

20 (ii) LACK OF FINANCIAL RE-
21 SOURCES.—If the agency provides notice
22 under clause (i)(III), the Inspector General
23 of the agency shall—

24 (I) conduct a financial audit to
25 review the notice; and

1 (II) not later than 90 days after
2 the date on which the review described
3 in subclause (I) is completed, submit
4 to the Committee on Natural Re-
5 sources of the House of Representa-
6 tives and the Committee on Energy
7 and Natural Resources of the Senate
8 the results of the audit conducted
9 under subclause (I).

10 (F) LIMITATION.—The Federal agency
11 from which funds are transferred pursuant to
12 this paragraph shall not reprogram funds to the
13 office of the head of the agency, or equivalent
14 office, to reimburse that office for the loss of
15 the funds.

16 (G) EFFECT OF PARAGRAPH.—Nothing in
17 this paragraph affects or limits the application
18 of, or obligation to comply with, any Federal,
19 State, local, or tribal law.

20 (j) MEMORANDUM OF AGREEMENTS FOR EARLY CO-
21 ORDINATION.—

22 (1) SENSE OF CONGRESS.—It is the sense of
23 Congress that—

24 (A) the Secretary and other Federal agen-
25 cies with relevant jurisdiction in the environ-

1 mental review process should cooperate with
2 each other, State and local agencies, and Indian
3 tribes on environmental review and Bureau of
4 Reclamation project delivery activities at the
5 earliest practicable time to avoid delays and du-
6 plication of effort later in the process, prevent
7 potential conflicts, and ensure that planning
8 and project development decisions reflect envi-
9 ronmental values; and

10 (B) the cooperation referred to in subpara-
11 graph (A) should include the development of
12 policies and the designation of staff that advise
13 planning agencies and project sponsors of stud-
14 ies or other information foreseeably required for
15 later Federal action and early consultation with
16 appropriate State and local agencies and Indian
17 tribes.

18 (2) TECHNICAL ASSISTANCE.—If requested at
19 any time by a State or project sponsor, the Sec-
20 retary and other Federal agencies with relevant ju-
21 risdiction in the environmental review process, shall,
22 to the maximum extent practicable and appropriate,
23 as determined by the agencies, provide technical as-
24 sistance to the State or project sponsor in carrying
25 out early coordination activities.

1 (3) MEMORANDUM OF AGENCY AGREEMENT.—

2 If requested at any time by a State or project spon-
3 sor, the Federal lead agency, in consultation with
4 other Federal agencies with relevant jurisdiction in
5 the environmental review process, may establish
6 memoranda of agreement with the project sponsor,
7 Indian tribes, State and local governments, and
8 other appropriate entities to carry out the early co-
9 ordination activities, including providing technical
10 assistance in identifying potential impacts and miti-
11 gation issues in an integrated fashion.

12 (k) LIMITATIONS.—Nothing in this section preempts
13 or interferes with—

14 (1) any obligation to comply with the provisions
15 of any Federal law, including—

16 (A) the National Environmental Policy Act
17 of 1969 (42 U.S.C. 4321 et seq.); and

18 (B) any other Federal environmental law;

19 (2) the reviewability of any final Federal agency
20 action in a court of the United States or in the court
21 of any State;

22 (3) any requirement for seeking, considering, or
23 responding to public comment; or

24 (4) any power, jurisdiction, responsibility, duty,
25 or authority that a Federal, State, or local govern-

1 mental agency, Indian tribe, or project sponsor has
2 with respect to carrying out a project or any other
3 provision of law applicable to projects.

4 (l) TIMING OF CLAIMS.—

5 (1) TIMING.—

6 (A) IN GENERAL.—Notwithstanding any
7 other provision of law, a claim arising under
8 Federal law seeking judicial review of a permit,
9 license, or other approval issued by a Federal
10 agency for a project study shall be barred un-
11 less the claim is filed not later than 3 years
12 after publication of a notice in the Federal Reg-
13 ister announcing that the permit, license, or
14 other approval is final pursuant to the law
15 under which the agency action is taken, unless
16 a shorter time is specified in the Federal law
17 that allows judicial review.

18 (B) APPLICABILITY.—Nothing in this sub-
19 section creates a right to judicial review or
20 places any limit on filing a claim that a person
21 has violated the terms of a permit, license, or
22 other approval.

23 (2) NEW INFORMATION.—

24 (A) IN GENERAL.—The Secretary shall
25 consider new information received after the

1 close of a comment period if the information
2 satisfies the requirements for a supplemental
3 environmental impact statement under title 40,
4 Code of Federal Regulations (or successor regu-
5 lations).

6 (B) SEPARATE ACTION.—The preparation
7 of a supplemental environmental impact state-
8 ment or other environmental document, if re-
9 quired under this section, shall be considered a
10 separate final agency action and the deadline
11 for filing a claim for judicial review of the ac-
12 tion shall be 3 years after the date of publica-
13 tion of a notice in the Federal Register an-
14 nouncing the action relating to such supple-
15 mental environmental impact statement or
16 other environmental document.

17 (m) CATEGORICAL EXCLUSIONS.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Sec-
20 retary shall—

21 (A) survey the use by the Bureau of Rec-
22 lamation of categorical exclusions in projects
23 since 2005;

24 (B) publish a review of the survey that in-
25 cludes a description of—

1 (i) the types of actions that were cat-
2 egorically excluded or could be the basis
3 for developing a new categorical exclusion;
4 and

5 (ii) any requests previously received
6 by the Secretary for new categorical exclu-
7 sions; and

8 (C) solicit requests from other Federal
9 agencies and project sponsors for new categor-
10 ical exclusions.

11 (2) NEW CATEGORICAL EXCLUSIONS.—Not
12 later than 1 year after the date of enactment of this
13 Act, if the Secretary has identified a category of ac-
14 tivities that merit establishing a categorical exclusion
15 that did not exist on the day before the date of en-
16 actment this Act based on the review under para-
17 graph (1), the Secretary shall publish a notice of
18 proposed rulemaking to propose that new categorical
19 exclusion, to the extent that the categorical exclusion
20 meets the criteria for a categorical exclusion under
21 section 1508.4 of title 40, Code of Federal Regula-
22 tions (or a successor regulation).

23 (n) REVIEW OF PROJECT ACCELERATION RE-
24 FORMS.—

1 (1) IN GENERAL.—The Comptroller General of
2 the United States shall—

3 (A) assess the reforms carried out under
4 this section; and

5 (B) not later than 5 years and not later
6 than 10 years after the date of enactment of
7 this Act, submit to the Committee on Natural
8 Resources of the House of Representatives and
9 the Committee on Energy and Natural Re-
10 sources of the Senate a report that describes
11 the results of the assessment.

12 (2) CONTENTS.—The reports under paragraph
13 (1) shall include an evaluation of impacts of the re-
14 forms carried out under this section on—

15 (A) project delivery;

16 (B) compliance with environmental laws;

17 and

18 (C) the environmental impact of projects.

19 (o) PERFORMANCE MEASUREMENT.—The Secretary
20 shall establish a program to measure and report on
21 progress made toward improving and expediting the plan-
22 ning and environmental review process.

23 (p) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—

24 For the repair, reconstruction, or rehabilitation of a Bu-
25 reau of Reclamation surface water storage project that is

1 in operation or under construction when damaged by an
2 event or incident that results in a declaration by the Presi-
3 dent of a major disaster or emergency pursuant to the
4 Robert T. Stafford Disaster Relief and Emergency Assist-
5 ance Act (42 U.S.C. 5121 et seq.), the Secretary shall
6 treat such repair, reconstruction, or rehabilitation activity
7 as a class of action categorically excluded from the re-
8 quirements relating to environmental assessments or envi-
9 ronmental impact statements under section 1508.4 of title
10 40, Code of Federal Regulations (or a successor regula-
11 tion), if the repair or reconstruction activity is—

12 (1) in the same location with the same capacity,
13 dimensions, and design as the original Bureau of
14 Reclamation surface water storage project as before
15 the declaration described in this section; and

16 (2) commenced within a 2-year period begin-
17 ning on the date of a declaration described in this
18 subsection.

19 **SEC. 146. ANNUAL REPORT TO CONGRESS.**

20 (a) **DEFINITION OF PROJECT REPORT.**—In this sec-
21 tion, the term “project report” means a final feasibility
22 report developed under the Reclamation Act of 1902 (32
23 Stat. 388), and all Acts amendatory thereof or supple-
24 mentary thereto.

1 (b) REPORTS.—Not later than February 1 of each
2 year, the Secretary shall develop and submit to the Com-
3 mittee on Natural Resources of the House of Representa-
4 tives and the Committee on Energy and Natural Re-
5 sources of the Senate an annual report, to be entitled “Re-
6 port to Congress on Future Water Project Development”,
7 that identifies the following:

8 (1) PROJECT REPORTS.—Each project report
9 that meets the criteria established in subsection
10 (d)(1)(A).

11 (2) PROPOSED PROJECT STUDIES.—Any pro-
12 posed project study submitted to the Secretary by a
13 non-Federal interest pursuant to subsection (c) that
14 meets the criteria established in subsection
15 (d)(1)(A).

16 (3) PROPOSED MODIFICATIONS.—Any proposed
17 modification to an authorized water project or
18 project study that meets the criteria established in
19 subsection (d)(1)(A) that—

20 (A) is submitted to the Secretary by a non-
21 Federal interest pursuant to subsection (c); or

22 (B) is identified by the Secretary for au-
23 thorization.

24 (4) EXPEDITED COMPLETION OF REPORT AND
25 DETERMINATIONS.—Any project study that was ex-

1 pedited and any Secretarial determinations under
2 section 144.

3 (c) REQUESTS FOR PROPOSALS.—

4 (1) PUBLICATION.—Not later than May 1 of
5 each year, the Secretary shall publish in the Federal
6 Register a notice requesting proposals from non-
7 Federal interests for proposed project studies and
8 proposed modifications to authorized projects and
9 project studies to be included in the annual report.

10 (2) DEADLINE FOR REQUESTS.—The Secretary
11 shall include in each notice required by this sub-
12 section a requirement that non-Federal interests
13 submit to the Secretary any proposals described in
14 paragraph (1) by not later than 120 days after the
15 date of publication of the notice in the Federal Reg-
16 ister in order for the proposals to be considered for
17 inclusion in the annual report.

18 (3) NOTIFICATION.—On the date of publication
19 of each notice required by this subsection, the Sec-
20 retary shall—

21 (A) make the notice publicly available, in-
22 cluding on the Internet; and

23 (B) provide written notification of the pub-
24 lication to the Committee on Natural Resources
25 of the House of Representatives and the Com-

1 mittee on Energy and Natural Resources of the
2 Senate.

3 (d) CONTENTS.—

4 (1) PROJECT REPORTS, PROPOSED PROJECT
5 STUDIES, AND PROPOSED MODIFICATIONS.—

6 (A) CRITERIA FOR INCLUSION IN RE-
7 PORT.—The Secretary shall include in the an-
8 nual report only those project reports, proposed
9 project studies, and proposed modifications to
10 authorized projects and project studies that—

11 (i) are related to the missions and au-
12 thorities of the Bureau of Reclamation;

13 (ii) require specific congressional au-
14 thorization, including by an Act of Con-
15 gress;

16 (iii) have not been congressionally au-
17 thorized;

18 (iv) have not been included in any
19 previous annual report; and

20 (v) if authorized, could be carried out
21 by the Bureau of Reclamation.

22 (B) DESCRIPTION OF BENEFITS.—

23 (i) DESCRIPTION.—The Secretary
24 shall describe in the annual report, to the
25 extent applicable and practicable, for each

1 proposed project study and proposed modi-
2 fication to an authorized water resources
3 development project or project study in-
4 cluded in the annual report, the benefits,
5 as described in clause (ii), of each such
6 study or proposed modification.

7 (ii) BENEFITS.—The benefits (or ex-
8 pected benefits, in the case of a proposed
9 project study) described in this clause are
10 benefits to—

11 (I) the protection of human life
12 and property;

13 (II) improvement to domestic ir-
14 rrigated water and power supplies;

15 (III) the national economy;

16 (IV) the environment; or

17 (V) the national security inter-
18 ests of the United States.

19 (C) IDENTIFICATION OF OTHER FAC-
20 TORS.—The Secretary shall identify in the an-
21 nual report, to the maximum extent prac-
22 ticable—

23 (i) for each proposed project study in-
24 cluded in the annual report, the non-Fed-
25 eral interest that submitted the proposed

1 project study pursuant to subsection (c);
2 and

3 (ii) for each proposed project study
4 and proposed modification to a project or
5 project study included in the annual re-
6 port, whether the non-Federal interest has
7 demonstrated—

8 (I) that local support exists for
9 the proposed project study or pro-
10 posed modification to an authorized
11 project or project study (including the
12 surface water storage development
13 project that is the subject of the pro-
14 posed feasibility study or the proposed
15 modification to an authorized project
16 study); and

17 (II) the financial ability to pro-
18 vide the required non-Federal cost
19 share.

20 (2) TRANSPARENCY.—The Secretary shall in-
21 clude in the annual report, for each project report,
22 proposed project study, and proposed modification to
23 a project or project study included under paragraph
24 (1)(A)—

1 (A) the name of the associated non-Federal
2 interest, including the name of any non-
3 Federal interest that has contributed, or is ex-
4 pected to contribute, a non-Federal share of the
5 cost of—

6 (i) the project report;

7 (ii) the proposed project study;

8 (iii) the authorized project study for
9 which the modification is proposed; or

10 (iv) construction of—

11 (I) the project that is the subject
12 of—

13 (aa) the water report;

14 (bb) the proposed project
15 study; or

16 (cc) the authorized project
17 study for which a modification is
18 proposed; or

19 (II) the proposed modification to
20 a project;

21 (B) a letter or statement of support for the
22 water report, proposed project study, or pro-
23 posed modification to a project or project study
24 from each associated non-Federal interest;

1 (C) the purpose of the feasibility report,
2 proposed feasibility study, or proposed modi-
3 fication to a project or project study;

4 (D) an estimate, to the extent practicable,
5 of the Federal, non-Federal, and total costs
6 of—

7 (i) the proposed modification to an
8 authorized project study; and

9 (ii) construction of—

10 (I) the project that is the subject
11 of—

12 (aa) the project report; or

13 (bb) the authorized project
14 study for which a modification is
15 proposed, with respect to the
16 change in costs resulting from
17 such modification; or

18 (II) the proposed modification to
19 an authorized project; and

20 (E) an estimate, to the extent practicable,
21 of the monetary and nonmonetary benefits of—

22 (i) the project that is the subject of—

23 (I) the project report; or

24 (II) the authorized project study
25 for which a modification is proposed,

1 with respect to the benefits of such
2 modification; or

3 (ii) the proposed modification to an
4 authorized project.

5 (3) CERTIFICATION.—The Secretary shall in-
6 clude in the annual report a certification stating
7 that each feasibility report, proposed feasibility
8 study, and proposed modification to a project or
9 project study included in the annual report meets
10 the criteria established in paragraph (1)(A).

11 (4) APPENDIX.—The Secretary shall include in
12 the annual report an appendix listing the proposals
13 submitted under subsection (c) that were not in-
14 cluded in the annual report under paragraph (1)(A)
15 and a description of why the Secretary determined
16 that those proposals did not meet the criteria for in-
17 clusion under such paragraph.

18 (e) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—
19 Notwithstanding any other deadlines required by this sec-
20 tion, the Secretary shall—

21 (1) not later than 60 days after the date of en-
22 actment of this Act, publish in the Federal Register
23 a notice required by subsection (c)(1); and

24 (2) include in such notice a requirement that
25 non-Federal interests submit to the Secretary any

1 proposals described in subsection (c)(1) by not later
2 than 120 days after the date of publication of such
3 notice in the Federal Register in order for such pro-
4 posals to be considered for inclusion in the first an-
5 nual report developed by the Secretary under this
6 section.

7 (f) PUBLICATION.—On submission of an annual re-
8 port to Congress, the Secretary shall make the annual re-
9 port publicly available, including through publication on
10 the Internet.

11 **TITLE II—PROTECTING** 12 **EXISTING WATER RIGHTS**

13 **SEC. 201. SHORT TITLE.**

14 This title may be cited as the “Water Rights Protec-
15 tion Act”.

16 **SEC. 202. DEFINITIONS.**

17 In this title:

18 (1) SECRETARY.—The term “Secretary”
19 means, as applicable—

20 (A) the Secretary of Agriculture; or

21 (B) the Secretary of the Interior.

22 (2) WATER RIGHT.—The term “water right”
23 means any surface or groundwater right filed, per-
24 mitted, certified, confirmed, decreed, adjudicated, or
25 otherwise recognized by a judicial proceeding or by

1 the State in which the user acquires possession of
2 the water or puts the water to beneficial use, includ-
3 ing water rights perfected or recognized under State
4 law for federally recognized Indian tribes.

5 **SEC. 203. APPLICABILITY.**

6 This title applies to each action by the Secretary to
7 issue, renew, amend, or extend any permit, approval, li-
8 cense, lease, allotment, easement, right-of-way, or other
9 land use or occupancy agreement.

10 **SEC. 204. PROHIBITIONS.**

11 In carrying out an action described in section 203,
12 the Secretary shall not condition or withhold the action,
13 in whole or in part, on—

14 (1) the transfer of any State water right (in-
15 cluding such water rights of joint and sole owner-
16 ship), directly or indirectly, to the United States or
17 any other designee;

18 (2) the acquisition of a State water right in the
19 name of the United States;

20 (3) limiting the date, time, quantity, location of
21 diversion or pumping, or place of use of a State
22 water right beyond any applicability limitations
23 under State water law;

24 (4) limiting the date, time, quantity, location of
25 diversion or pumping, or place of use of a State

1 water right based on jurisdiction over groundwater
2 resources, unless the limitation imposes no greater
3 restriction to a State water right than an applicable
4 State law governing groundwater resources; or

5 (5) the modification of the terms and conditions
6 of groundwater withdrawal, guidance and reporting
7 procedures, and conservation and source protection
8 measures established by a State.

9 **SEC. 205. POLICY DEVELOPMENT.**

10 In developing any rule, policy, directive, management
11 plan, or similar Federal action relating to an action de-
12 scribed in section 203, the Secretary—

13 (1) shall—

14 (A) recognize the longstanding authority of
15 the States relating to evaluating, protecting, al-
16 locating, regulating, and adjudicating issues re-
17 lating to groundwater; and

18 (B) coordinate with the States to ensure
19 that any rule, policy, directive, management
20 plan, or similar Federal action is consistent
21 with, and imposes no greater restriction or reg-
22 ulatory requirement, than applicable State
23 groundwater law; and

24 (2) shall not—

25 (A) adversely affect—

1 (i) the authority of a State in adjudicating water rights;

2 (ii) any definition established by a State with respect to the term “beneficial use”, “priority of water rights”, or “terms of use”; or

3 (iii) any other right or obligation of a State established under State law; or

4 (B) assert any connection between surface and groundwater that is inconsistent with such a connection recognized by State water laws.

5 **SEC. 206. EFFECT OF TITLE.**

6 (a) EFFECT ON RECLAMATION CONTRACTS.—Nothing in this title interferes with any Bureau of Reclamation contract entered into pursuant to the reclamation laws or any water right perfected for a Federal reclamation project.

7 (b) EFFECT ON ENDANGERED SPECIES ACT.—Nothing in this title affects the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

8 (c) EFFECT ON FEDERAL RESERVED WATER RIGHTS.—Nothing in this title limits or expands any reserved water right of the Federal Government on land administered by the Secretary.

1 (d) EFFECT ON FEDERAL POWER ACT.—Nothing in
2 this title limits or expands any authority under section
3 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C.
4 797(e), 803(j), 811).

5 (e) EFFECT ON INDIAN WATER RIGHTS.—Nothing in
6 this title limits or expands any water right or treaty right
7 of any federally recognized Indian tribe.

8 (f) EFFECT ON FEDERALLY HELD STATE WATER
9 RIGHTS.—Nothing in this title limits the ability of the
10 Secretary to acquire, use, enforce, or protect a State water
11 right owned by the United States through applicable State
12 procedures.

13 (g) EFFECT ON JOINT OWNERSHIP.—Nothing in this
14 title limits the ability of the owner of a State water right
15 to enter into a voluntary agreement with the Secretary for
16 joint ownership of the State water right, subject to the
17 condition that the joint ownership shall not be a condition
18 of any action described in section 203.

1 **TITLE III—COMPLETING AND**
2 **MAINTAINING RURAL WATER**
3 **SUPPLY INFRASTRUCTURE**

4 **Subtitle A—Irrigation Rehabilita-**
5 **tion and Renovation for Indian**
6 **Tribal Governments and Econo-**
7 **mies**

8 **SEC. 301. SHORT TITLE.**

9 This subtitle may be cited as the “Irrigation Rehabili-
10 tation and Renovation for Indian Tribal Governments and
11 Their Economies Act” or the “IRRIGATE Act”.

12 **SEC. 302. DEFINITIONS.**

13 In this subtitle:

14 (1) DEFERRED MAINTENANCE.—The term “de-
15 ferred maintenance” means any maintenance activity
16 that was delayed to a future date, in lieu of being
17 carried out at the time at which the activity was
18 scheduled to be, or otherwise should have been, car-
19 ried out.

20 (2) FUND.—The term “Fund” means the In-
21 dian Irrigation Fund established by section 311.

22 (3) INDIAN TRIBE.—The term “Indian tribe”
23 has the meaning given the term in section 4 of the
24 Indian Self-Determination and Education Assistance
25 Act (25 U.S.C. 450b).

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 **PART I—INDIAN IRRIGATION FUND**

4 **SEC. 311. ESTABLISHMENT.**

5 There is established in the Treasury of the United
6 States a fund, to be known as the “Indian Irrigation
7 Fund”, consisting of—

8 (1) such amounts as are deposited in the Fund
9 under section 313; and

10 (2) any interest earned on investment of
11 amounts in the Fund under section 315.

12 **SEC. 312. DEPOSITS TO FUND.**

13 (a) IN GENERAL.—For each of fiscal years 2017
14 through 2038, the Secretary of the Treasury shall deposit
15 in the Fund \$35,000,000 of the revenues that would oth-
16 erwise be deposited for the fiscal year in the reclamation
17 fund established by the first section of the Act of June
18 17, 1902 (32 Stat. 388, chapter 1093).

19 (b) AVAILABILITY OF AMOUNTS.—Amounts depos-
20 ited in the Fund under subsection (a) shall be used, sub-
21 ject to appropriation, to carry out this subtitle.

22 **SEC. 313. EXPENDITURES FROM FUND.**

23 (a) IN GENERAL.—Subject to subsection (b), for each
24 of fiscal years 2017 through 2038, the Secretary may, to
25 the extent provided in advance in appropriations Acts, ex-

1 pend from the Fund, in accordance with this subtitle, not
2 more than the sum of—

3 (1) \$35,000,000; and

4 (2) the amount of interest accrued in the Fund.

5 (b) **ADDITIONAL EXPENDITURES.**—The Secretary
6 may expend more than \$35,000,000 for any fiscal year
7 referred to in subsection (a) if the additional amounts are
8 available in the Fund as a result of a failure of the Sec-
9 retary to expend all of the amounts available under sub-
10 section (a) in one or more prior fiscal years.

11 **SEC. 314. INVESTMENTS OF AMOUNTS.**

12 (a) **IN GENERAL.**—The Secretary of the Treasury
13 shall invest such portion of the Fund as is not, in the judg-
14 ment of the Secretary, required to meet current with-
15 drawals.

16 (b) **CREDITS TO FUND.**—The interest on, and the
17 proceeds from the sale or redemption of, any obligations
18 held in the Fund shall be credited to, and form a part
19 of, the Fund.

20 **SEC. 315. TRANSFERS OF AMOUNTS.**

21 (a) **IN GENERAL.**—The amounts required to be
22 transferred to the Fund under this part shall be trans-
23 ferred at least monthly from the general fund of the
24 Treasury to the Fund on the basis of estimates made by
25 the Secretary of the Treasury.

1 (b) ADJUSTMENTS.—Proper adjustment shall be
 2 made in amounts subsequently transferred to the extent
 3 prior estimates are in excess of or less than the amounts
 4 required to be transferred.

5 **SEC. 316. TERMINATION.**

6 On September 30, 2038—

7 (1) the Fund shall terminate; and

8 (2) the unexpended and unobligated balance of
 9 the Fund shall be transferred to the reclamation
 10 fund established by the first section of the Act of
 11 June 17, 1902 (32 Stat. 388, chapter 1093).

12 **PART II—REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS**

13 **SEC. 321. REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS.**

14 (a) IN GENERAL.—The Secretary shall establish a
 15 program to address the deferred maintenance and water
 16 storage needs of Indian irrigation projects that—

17 (1) create risks to public or employee safety or
 18 natural or cultural resources; and

19 (2) unduly impede the management and efficiency of the Indian irrigation program.

20 (b) FUNDING.—Consistent with section 313, the Secretary shall use or transfer to the Bureau of Indian Af-

1 fairs not less than \$35,000,000 of amounts in the Fund,
2 plus accrued interest, for each of fiscal years 2017
3 through 2038 to carry out maintenance, repair, replace-
4 ment, and water storage construction activities for one or
5 more of the Indian irrigation projects described in section
6 322 (including any structures, facilities, equipment, per-
7 sonnel, or vehicles used in connection with the operation
8 of those projects), subject to the condition that the funds
9 expended under this part shall not be—

10 (1) subject to reimbursement by the owners of
11 the land served by the Indian irrigation projects; or

12 (2) assessed as debts or liens against the land
13 served by the Indian irrigation projects.

14 **SEC. 322. ELIGIBLE PROJECTS.**

15 The projects eligible for funding under section 321(b)
16 are the Indian irrigation projects in the western United
17 States that, on the date of enactment of this Act—

18 (1) are owned by the Federal Government, as
19 listed in the Federal inventory required by Executive
20 Order 13327 (40 U.S.C. 121 note; relating to Fed-
21 eral real property asset management);

22 (2) are managed and operated by the Bureau of
23 Indian Affairs (including projects managed, oper-
24 ated, or maintained under contracts or compacts

1 pursuant to the Indian Self-Determination and Edu-
2 cation Assistance Act (25 U.S.C. 450 et seq.); and

3 (3) have deferred maintenance documented by
4 the Bureau of Indian Affairs.

5 **SEC. 323. REQUIREMENTS AND CONDITIONS.**

6 Not later than 120 days after the date of enactment
7 of this Act and as a precondition to amounts being ex-
8 pended from the Fund to carry out this part, the Sec-
9 retary, in consultation with the Assistant Secretary for In-
10 dian Affairs and representatives of affected Indian tribes,
11 shall develop and submit to Congress—

12 (1) programmatic goals to carry out this part
13 that—

14 (A) would enable the completion of repair-
15 ing, replacing, modernizing, or performing
16 maintenance on projects as expeditiously as
17 possible;

18 (B) facilitate or improve the ability of the
19 Bureau of Indian Affairs to carry out the mis-
20 sion of the Bureau of Indian Affairs in oper-
21 ating a project;

22 (C) ensure that the results of government-
23 to-government consultation required under sec-
24 tion 325 be addressed; and

1 (D) would facilitate the construction of
2 new water storage using non-Federal contribu-
3 tions to address tribal, regional, and watershed-
4 level supply needs; and

5 (2) funding prioritization criteria to serve as a
6 methodology for distributing funds under this part,
7 that take into account—

8 (A) the extent to which deferred mainte-
9 nance of qualifying irrigation projects poses a
10 threat to public or employee safety or health;

11 (B) the extent to which deferred mainte-
12 nance poses a threat to natural or cultural re-
13 sources;

14 (C) the extent to which deferred mainte-
15 nance poses a threat to the ability of the Bu-
16 reau of Indian Affairs to carry out the mission
17 of the Bureau of Indian Affairs in operating the
18 project;

19 (D) the extent to which repairing, replac-
20 ing, modernizing, or performing maintenance on
21 a facility or structure will—

22 (i) improve public or employee safety,
23 health, or accessibility;

24 (ii) assist in compliance with codes,
25 standards, laws, or other requirements;

1 (iii) address unmet needs; and

2 (iv) assist in protecting natural or cul-
3 tural resources;

4 (E) the methodology of the rehabilitation
5 priority index of the Secretary, as in effect on
6 the date of enactment of this Act;

7 (F) the potential economic benefits of the
8 expenditures on job creation and general eco-
9 nomic development in the affected tribal com-
10 munities;

11 (G) the ability of the qualifying project to
12 address tribal, regional, and watershed level
13 water supply needs; and

14 (H) such other factors as the Secretary de-
15 termines to be appropriate to prioritize the use
16 of available funds that are, to the fullest extent
17 practicable, consistent with tribal and user rec-
18 ommendations received pursuant to the con-
19 sultation and input process under section 325.

20 **SEC. 324. STUDY OF INDIAN IRRIGATION PROGRAM AND**
21 **PROJECT MANAGEMENT.**

22 (a) **TRIBAL CONSULTATION AND OTHER INPUT.**—
23 Before beginning to conduct the study required under sub-
24 section (b), the Secretary shall—

1 (1) consult with the Indian tribes that have ju-
2 risdiction over the land on which an irrigation
3 project eligible to receive funding under section 322
4 is located; and

5 (2) solicit and consider the input, comments,
6 and recommendations of—

7 (A) the landowners served by the irrigation
8 project; and

9 (B) irrigators from adjacent irrigation dis-
10 tricts.

11 (b) STUDY.—Not later than 2 years after the date
12 of enactment of this Act, the Secretary of the Interior,
13 acting through the Assistant Secretary for Indian Affairs,
14 shall complete a study that evaluates options for improv-
15 ing programmatic and project management and perform-
16 ance of irrigation projects managed and operated in whole
17 or in part by the Bureau of Indian Affairs.

18 (c) REPORT.—On completion of the study under sub-
19 section (b), the Secretary of the Interior, acting through
20 the Assistant Secretary for Indian Affairs, shall submit
21 to the Committee on Indian Affairs of the Senate and the
22 Committee on Natural Resources of the House of Rep-
23 resentatives a report that—

24 (1) describes the results of the study;

1 (2) determines the cost to financially sustain
2 each project;

3 (3) recommends whether management of each
4 project could be improved by transferring manage-
5 ment responsibilities to other Federal agencies or
6 water user groups; and

7 (4) includes recommendations for improving
8 programmatic and project management and per-
9 formance—

10 (A) in each qualifying project area; and

11 (B) for the program as a whole.

12 (d) STATUS REPORT.—Not later than 2 years after
13 the date of enactment of this Act, and not less frequently
14 than every 2 years thereafter, the Secretary of the Inte-
15 rior, acting through the Assistant Secretary for Indian Af-
16 fairs, shall submit to the Committee on Indian Affairs of
17 the Senate and the Committee on Natural Resources of
18 the House of Representatives a report that includes a de-
19 scription of—

20 (1) the progress made toward addressing the
21 deferred maintenance needs of the Indian irrigation
22 projects described in section 322, including a list of
23 projects funded during the fiscal period covered by
24 the report;

1 (2) the outstanding needs of those projects that
2 have been provided funding to address the deferred
3 maintenance needs pursuant to this part;

4 (3) the remaining needs of any of those
5 projects;

6 (4) how the goals established pursuant to sec-
7 tion 323 have been met, including—

8 (A) an identification and assessment of
9 any deficiencies or shortfalls in meeting those
10 goals; and

11 (B) a plan to address the deficiencies or
12 shortfalls in meeting those goals; and

13 (5) any other subject matters the Secretary of
14 the Interior, to the maximum extent practicable con-
15 sistent with tribal and user recommendations re-
16 ceived pursuant to the consultation and input proc-
17 ess under this section, determines to be appropriate.

18 **SEC. 325. TRIBAL CONSULTATION AND USER INPUT.**

19 Before expending funds on an Indian irrigation
20 project pursuant to section 321 and not later than 120
21 days after the date of enactment of this Act, the Secretary
22 shall—

23 (1) consult with the Indian tribe that has juris-
24 diction over the land on which an irrigation project

1 eligible to receive funding under section 322 is lo-
2 cated; and

3 (2) solicit and consider the input, comments,
4 and recommendations of—

5 (A) the landowners served by the irrigation
6 project; and

7 (B) irrigators from adjacent irrigation dis-
8 tricts.

9 **SEC. 326. ALLOCATION AMONG PROJECTS.**

10 (a) IN GENERAL.—Subject to subsection (b), to the
11 maximum extent practicable, the Secretary shall ensure
12 that, for each of fiscal years 2017 through 2038, each In-
13 dian irrigation project eligible for funding under section
14 322 that has critical maintenance needs receives part of
15 the funding under section 321 to address critical mainte-
16 nance needs.

17 (b) PRIORITY.—In allocating amounts under section
18 321(b), in addition to considering the funding priorities
19 described in section 323, the Secretary shall give priority
20 to eligible Indian irrigation projects serving more than 1
21 Indian tribe within an Indian reservation and to projects
22 for which funding has not been made available during the
23 10-year period ending on the day before the date of enact-
24 ment of this Act under any other Act of Congress that
25 expressly identifies the Indian irrigation project or the In-

1 dian reservation of the project to address the deferred
2 maintenance, repair, or replacement needs of the Indian
3 irrigation project.

4 (c) CAP ON FUNDING.—

5 (1) IN GENERAL.—Subject to paragraph (2), in
6 allocating amounts under section 321(b), the Sec-
7 retary shall allocate not more than \$15,000,000 to
8 any individual Indian irrigation project described in
9 section 322 during any consecutive 3-year period.

10 (2) EXCEPTION.—Notwithstanding the cap de-
11 scribed in paragraph (1), if the full amount under
12 section 321(b) cannot be fully allocated to eligible
13 Indian irrigation projects because the costs of the
14 remaining activities authorized in section 321(b) of
15 an irrigation project would exceed the cap described
16 in paragraph (1), the Secretary may allocate the re-
17 maining funds to eligible Indian irrigation projects
18 in accordance with this part.

19 (d) BASIS OF FUNDING.—Any amounts made avail-
20 able under this section shall be nonreimbursable.

21 (e) APPLICABILITY OF ISDEAA.—The Indian Self-
22 Determination and Education Assistance Act (25 U.S.C.
23 450 et seq.) shall apply to activities carried out under this
24 section.

1 **Subtitle B—Clean Water for Rural**
2 **Communities**

3 **SEC. 331. SHORT TITLE.**

4 This subtitle may be cited as the “Clean Water for
5 Rural Communities Act”.

6 **SEC. 332. PURPOSE.**

7 The purpose of this subtitle is to ensure a safe and
8 adequate municipal, rural, and industrial water supply for
9 the citizens of—

10 (1) Dawson, Garfield, McCone, Prairie, Rich-
11 land, Judith Basin, Wheatland, Golden Valley, Fer-
12 gus, Yellowstone, and Musselshell Counties in the
13 State of Montana; and

14 (2) McKenzie County, North Dakota.

15 **SEC. 333. DEFINITIONS.**

16 In this subtitle:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Western
19 Area Power Administration.

20 (2) AUTHORITY.—The term “Authority”
21 means—

22 (A) in the case of the Dry-Redwater Re-
23 gional Water Authority System—

24 (i) the Dry-Redwater Regional Water
25 Authority, which is a publicly owned non-

1 profit water authority formed in accord-
 2 ance with Mont. Code Ann. § 75-6-302
 3 (2007); and

4 (ii) any nonprofit successor entity to
 5 the Authority described in clause (i); and
 6 (B) in the case of the Musselshell-Judith

7 Rural Water System—

8 (i) the Central Montana Regional
 9 Water Authority, which is a publicly owned
 10 nonprofit water authority formed in ac-
 11 cordance with Mont. Code Ann. § 75-6-
 12 302 (2007); and

13 (ii) any nonprofit successor entity to
 14 the Authority described in clause (i).

15 (3) DRY-REDWATER REGIONAL WATER AU-
 16 THORITY SYSTEM.—The term “Dry-Redwater Re-
 17 gional Water Authority System” means the Dry-
 18 Redwater Regional Water Authority System author-
 19 ized under section 334(a)(1) with a project service
 20 area that includes—

21 (A) Garfield and McCone Counties in the
 22 State;

23 (B) the area west of the Yellowstone River
 24 in Dawson and Richland Counties in the State;

1 (C) T. 15 N. (including the area north of
2 the Township) in Prairie County in the State;
3 and

4 (D) the portion of McKenzie County,
5 North Dakota, that includes all land that is lo-
6 cated west of the Yellowstone River in the State
7 of North Dakota.

8 (4) INTEGRATED SYSTEM.—The term “inte-
9 grated system” means the transmission system
10 owned by the Western Area Power Administration
11 Basin Electric Power District and the Heartland
12 Consumers Power District.

13 (5) MUSSELHELL-JUDITH RURAL WATER SYS-
14 TEM.—The term “Musselshell-Judith Rural Water
15 System” means the Musselshell-Judith Rural Water
16 System authorized under section 334(a)(2) with a
17 project service area that includes—

18 (A) Judith Basin, Wheatland, Golden Val-
19 ley, and Musselshell Counties in the State;

20 (B) the portion of Yellowstone County in
21 the State within 2 miles of State Highway 3
22 and within 4 miles of the county line between
23 Golden Valley and Yellowstone Counties in the
24 State, inclusive of the Town of Broadview,
25 Montana; and

1 (C) the portion of Fergus County in the
2 State within 2 miles of US Highway 87 and
3 within 4 miles of the county line between Fer-
4 gus and Judith Basin Counties in the State, in-
5 clusive of the Town of Moore, Montana.

6 (6) NON-FEDERAL DISTRIBUTION SYSTEM.—
7 The term “non-Federal distribution system” means
8 a non-Federal utility that provides electricity to the
9 counties covered by the Dry-Redwater Regional
10 Water Authority System.

11 (7) PICK-SLOAN PROGRAM.—The term “Pick-
12 Sloan program” means the Pick-Sloan Missouri
13 River Basin Program (authorized by section 9 of the
14 Act of December 22, 1944 (commonly known as the
15 “Flood Control Act of 1944”) (58 Stat. 891, chapter
16 665)).

17 (8) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (9) STATE.—The term “State” means the State
20 of Montana.

21 (10) WATER SYSTEM.—The term “Water Sys-
22 tem” means—

23 (A) the Dry-Redwater Regional Water Au-
24 thority System; and

1 (B) the Musselshell-Judith Rural Water
2 System.

3 **SEC. 334. DRY-REDWATER REGIONAL WATER AUTHORITY**
4 **SYSTEM AND MUSSELHELL-JUDITH RURAL**
5 **WATER SYSTEM.**

6 (a) IN GENERAL.—The Secretary may carry out—

7 (1) the project entitled the “Dry-Redwater Re-
8 gional Water Authority System” in a manner that is
9 substantially in accordance with the feasibility study
10 entitled “Dry-Redwater Regional Water System Fea-
11 sibility Study” (including revisions of the study),
12 which received funding from the Bureau of Reclama-
13 tion on September 1, 2010; and

14 (2) the project entitled the “Musselshell-Judith
15 Rural Water System” in a manner that is substan-
16 tially in accordance with the feasibility report enti-
17 tled “Musselshell-Judith Rural Water System Feasi-
18 bility Report” (including any and all revisions of the
19 report).

20 (b) COOPERATIVE AGREEMENT.—The Secretary shall
21 enter into a cooperative agreement with the Authority to
22 provide Federal assistance for the planning, design, and
23 construction of the Water Systems.

24 (c) COST-SHARING REQUIREMENT.—

25 (1) FEDERAL SHARE.—

1 (A) IN GENERAL.—The Federal share of
2 the costs relating to the planning, design, and
3 construction of the Water Systems shall not ex-
4 ceed—

5 (i) in the case of the Dry-Redwater
6 Regional Water Authority System—

7 (I) 75 percent of the total cost of
8 the Dry-Redwater Regional Water Au-
9 thority System; or

10 (II) such other lesser amount as
11 may be determined by the Secretary,
12 acting through the Commissioner of
13 Reclamation, in a feasibility report; or

14 (ii) in the case of the Musselshell-Ju-
15 dith Rural Water System, 75 percent of
16 the total cost of the Musselshell-Judith
17 Rural Water System.

18 (B) LIMITATION.—Amounts made avail-
19 able under subparagraph (A) shall not be re-
20 turnable or reimbursable under the reclamation
21 laws.

22 (2) USE OF FEDERAL FUNDS.—

23 (A) GENERAL USES.—Subject to subpara-
24 graphs (B) and (C), the Water Systems may

1 use Federal funds made available to carry out
2 this section for—

3 (i) facilities relating to—

4 (I) water pumping;

5 (II) water treatment; and

6 (III) water storage;

7 (ii) transmission pipelines;

8 (iii) pumping stations;

9 (iv) appurtenant buildings, mainte-
10 nance equipment, and access roads;

11 (v) any interconnection facility that
12 connects a pipeline of the Water System to
13 a pipeline of a public water system;

14 (vi) electrical power transmission and
15 distribution facilities required for the oper-
16 ation and maintenance of the Water Sys-
17 tem;

18 (vii) any other facility or service re-
19 quired for the development of a rural water
20 distribution system, as determined by the
21 Secretary; and

22 (viii) any property or property right
23 required for the construction or operation
24 of a facility described in this subsection.

1 (B) ADDITIONAL USES.—In addition to the
2 uses described in subparagraph (A)—

3 (i) the Dry-Redwater Regional Water
4 Authority System may use Federal funds
5 made available to carry out this section
6 for—

7 (I) facilities relating to water in-
8 take; and

9 (II) distribution, pumping, and
10 storage facilities that—

11 (aa) serve the needs of citi-
12 zens who use public water sys-
13 tems;

14 (bb) are in existence on the
15 date of enactment of this Act;
16 and

17 (cc) may be purchased, im-
18 proved, and repaired in accord-
19 ance with a cooperative agree-
20 ment entered into by the Sec-
21 retary under subsection (b); and

22 (ii) the Musselshell-Judith Rural
23 Water System may use Federal funds
24 made available to carry out this section
25 for—

- 1 (I) facilities relating to—
 2 (aa) water supply wells; and
 3 (bb) distribution pipelines;
 4 and
 5 (II) control systems.

6 (C) LIMITATION.—Federal funds made
 7 available to carry out this section shall not be
 8 used for the operation, maintenance, or replace-
 9 ment of the Water Systems.

10 (D) TITLE.—Title to the Water Systems
 11 shall be held by the Authority.

12 **SEC. 335. USE OF POWER FROM PICK-SLOAN PROGRAM BY**
 13 **DRY-REDWATER REGIONAL WATER AUTHOR-**
 14 **ITY SYSTEM.**

15 (a) FINDING.—Congress finds that—

16 (1) McCone and Garfield Counties in the State
 17 were designated as impact counties during the pe-
 18 riod in which the Fort Peck Dam was constructed;
 19 and

20 (2) as a result of the designation, the Counties
 21 referred to in paragraph (1) were to receive impact
 22 mitigation benefits in accordance with the Pick-
 23 Sloan program.

24 (b) AVAILABILITY OF POWER.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the Administrator shall make available to the Dry-
3 Redwater Regional Water Authority System a quan-
4 tity of power required, of up to 1½ megawatt capac-
5 ity, to meet the pumping and incidental operation
6 requirements of the Dry-Redwater Regional Water
7 Authority System during the period beginning on
8 May 1 and ending on October 31 of each year—

9 (A) from the water intake facilities; and

10 (B) through all pumping stations, water
11 treatment facilities, reservoirs, storage tanks,
12 and pipelines up to the point of delivery of
13 water by the water supply system to all storage
14 reservoirs and tanks and each entity that dis-
15 tributes water at retail to individual users.

16 (2) ELIGIBILITY.—The Dry-Redwater Regional
17 Water Authority System shall be eligible to receive
18 power under paragraph (1) if the Dry-Redwater Re-
19 gional Water Authority System—

20 (A) operates on a not-for-profit basis; and

21 (B) is constructed pursuant to a coopera-
22 tive agreement entered into by the Secretary
23 under section 334(b).

1 (3) RATE.—The Administrator shall establish
2 the cost of the power described in paragraph (1) at
3 the firm power rate.

4 (4) ADDITIONAL POWER.—

5 (A) IN GENERAL.—If power, in addition to
6 that made available to the Dry-Redwater Re-
7 gional Water Authority System under para-
8 graph (1), is necessary to meet the pumping re-
9 quirements of the Dry-Redwater Regional
10 Water Authority, the Administrator may pur-
11 chase the necessary additional power at the best
12 available rate.

13 (B) REIMBURSEMENT.—The cost of pur-
14 chasing additional power shall be reimbursed to
15 the Administrator by the Dry-Redwater Re-
16 gional Water Authority.

17 (5) RESPONSIBILITY FOR POWER CHARGES.—
18 The Dry-Redwater Regional Water Authority shall
19 be responsible for the payment of the power charge
20 described in paragraph (4) and non-Federal delivery
21 costs described in paragraph (6).

22 (6) TRANSMISSION ARRANGEMENTS.—

23 (A) IN GENERAL.—The Dry-Redwater Re-
24 gional Water Authority System shall be respon-
25 sible for all non-Federal transmission and dis-

1 tribution system delivery and service arrange-
2 ments.

3 (B) UPGRADES.—The Dry-Redwater Re-
4 gional Water Authority System shall be respon-
5 sible for funding any transmission upgrades, if
6 required, to the integrated system necessary to
7 deliver power to the Dry-Redwater Regional
8 Water Authority System.

9 **SEC. 336. WATER RIGHTS.**

10 Nothing in this subtitle—

11 (1) preempts or affects any State water law; or

12 (2) affects any authority of a State, as in effect
13 on the date of enactment of this Act, to manage
14 water resources within that State.

15 **SEC. 337. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) IN GENERAL.—There are authorized to be appro-
17 priated such sums as are necessary to carry out the plan-
18 ning, design, and construction of the Water Systems, sub-
19 stantially in accordance with the cost estimate set forth
20 in the applicable feasibility study or feasibility report de-
21 scribed in section 334(a).

22 (b) COST INDEXING.—

23 (1) IN GENERAL.—The amount authorized to
24 be appropriated under subsection (a) may be in-
25 creased or decreased in accordance with ordinary

1 fluctuations in development costs incurred after the
 2 applicable date specified in paragraph (2), as indi-
 3 cated by any available engineering cost indices appli-
 4 cable to construction activities that are similar to
 5 the construction of the Water Systems.

6 (2) APPLICABLE DATES.—The date referred to
 7 in paragraph (1) is—

8 (A) in the case of the Dry-Redwater Re-
 9 gional Water Authority System, January 1,
 10 2008; and

11 (B) in the case of the Musselshell-Judith
 12 Rural Water Authority System, November 1,
 13 2014.

14 **TITLE IV—OFFSET**

15 **SEC. 401. ACCELERATED REVENUE, REPAYMENT, AND SUR-** 16 **FACE WATER STORAGE ENHANCEMENT.**

17 (a) SHORT TITLE.—This section may be cited as the
 18 “Accelerated Revenue, Repayment, and Surface Water
 19 Storage Enhancement Act”.

20 (b) DEFINITIONS.—In this section:

21 (1) CONSTRUCTION.—

22 (A) IN GENERAL.—The term “construc-
 23 tion” means the designing, materials engineer-
 24 ing and testing, surveying, and building of sur-
 25 face water storage.

1 (B) INCLUSIONS.—The term “construc-
2 tion” includes—

3 (i) any addition to existing surface
4 water storage; and

5 (ii) construction of a new surface
6 water storage facility.

7 (C) EXCLUSIONS.—The term “construc-
8 tion” excludes any Federal statutory or regu-
9 latory obligation relating to any permit, review,
10 approval, or other similar requirement.

11 (2) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (3) SURFACE WATER STORAGE.—The term
14 “surface water storage” means storage at—

15 (A) any federally owned facility under the
16 jurisdiction of the Bureau of Reclamation; or

17 (B) any non-Federal facility used for the
18 surface storage and supply of water resources.

19 (4) TREASURY RATE.—The term “Treasury
20 rate” means the 20-year constant maturity treasury
21 rate published by the United States Treasury, as in
22 existence on the effective date of the applicable con-
23 tract.

24 (5) WATER USERS ASSOCIATION.—

1 (A) IN GENERAL.—The term “water users
2 association” means an entity organized and rec-
3 ognized under State law that is eligible to enter
4 into contracts with the Commissioner—

5 (i) to receive contract water for deliv-
6 ery to users of the water; and

7 (ii) to pay any applicable charges.

8 (B) INCLUSIONS.—The term “water users
9 association” includes—

10 (i) an association;

11 (ii) a conservatory district;

12 (iii) an irrigation district;

13 (iv) a municipality; and

14 (v) a water project contract unit.

15 (c) CONVERSION AND PREPAYMENT OF CON-
16 TRACTS.—

17 (1) CONVERSION.—

18 (A) IN GENERAL.—On receipt of a request
19 from a water users association, the Secretary
20 shall convert any water service contract between
21 the United States and the water users associa-
22 tion to allow for prepayment of the repayment
23 contract in accordance with this paragraph
24 under mutually agreeable terms and conditions.

1 (B) MANNER.—The manner of conversion
2 under this paragraph shall be as follows:

3 (i) Water service contracts entered
4 under section 9(c)(2) of the Act of August
5 4, 1939 (53 Stat. 1194, chapter 418), to
6 be converted under this section shall be
7 converted to a contract under section
8 9(c)(1) of that Act (53 Stat. 1194, chapter
9 418).

10 (ii) Water service contracts entered
11 into under section 9(e) of the Act of Au-
12 gust 4, 1939 (53 Stat. 1196, chapter 418),
13 to be converted under this section shall be
14 converted to repayment contracts under
15 section 9(d) of that Act (53 Stat. 1195,
16 chapter 418).

17 (2) PREPAYMENT.—

18 (A) SECTION 9(c)(1).—Except for a repay-
19 ment contract under which the applicable water
20 users association has previously negotiated for
21 prepayment, each repayment contract under
22 section 9(c)(1) of the Act of August 4, 1939
23 (53 Stat. 1194, chapter 418) (including any
24 contract converted pursuant to paragraph
25 (1)(B)(i)), in effect on the date of enactment of

1 this Act shall, at the request of the water users
2 association—

3 (i) provide for the repayment in lump
4 sum of the remaining construction costs
5 identified in an applicable water project-
6 specific municipal or industrial rate repay-
7 ment schedule (as adjusted to reflect pay-
8 ment not reflected in the schedule) and
9 properly assignable for ultimate return by
10 the water users association, subject to the
11 condition that an estimate of the remain-
12 ing construction costs, as adjusted, shall be
13 provided by the Secretary to the water
14 users association by not later than 90 days
15 after the date of receipt of the request of
16 the water users association;

17 (ii) require that any construction costs
18 or other capitalized costs that were in-
19 curred after the effective date of the con-
20 tract, were not reflected in the rate sched-
21 ule referred to in clause (i), or were not
22 properly assignable to the water users as-
23 sociation, and were incurred as a result of
24 a collective annual allocation of capital
25 costs to the water users association elect-

1 ing contract conversion under this sub-
2 section, shall be repaid—

3 (I) for costs equal to less than
4 \$5,000,000, by not later than the date
5 that is 5 years after the date of notifi-
6 cation of the allocation; or

7 (II) for costs equal to \$5,000,000
8 or more, in accordance with applicable
9 reclamation laws; and

10 (iii) continue in effect for the period
11 during which the water users association
12 pays applicable charges in accordance with
13 section 9(c)(1) of the Act of August 4,
14 1939 (53 Stat. 1194, chapter 418), and
15 other applicable law.

16 (B) SECTION 9(d).—Except for a repay-
17 ment contract under which the applicable water
18 users association has previously negotiated for
19 prepayment, each repayment contract under
20 section 9(d) of the Act of August 4, 1939 (53
21 Stat. 1195, chapter 418) (including any con-
22 tract converted pursuant to paragraph
23 (1)(B)(ii)), in effect on the date of enactment
24 of this Act shall, at the request of the water
25 users association—

1 (i) provide for repayment of the re-
2 maining construction costs identified in an
3 applicable water project-specific irrigation
4 rate repayment schedule (as adjusted to
5 reflect payment not reflected in the sched-
6 ule) and properly assignable for ultimate
7 return by the water users association in
8 lump sum, by accelerated prepayment, or if
9 made in approximately equal installments,
10 by not later than 3 years after the effective
11 date of the repayment contract, subject to
12 the conditions that—

13 (I) the amount shall be dis-
14 counted by $\frac{1}{2}$ the Treasury rate; and

15 (II) the estimate of the remain-
16 ing construction costs, as adjusted,
17 shall be provided by the Secretary to
18 the water users association by not
19 later than 90 days after the date of
20 receipt of the request of the water
21 users association;

22 (ii) require that any construction costs
23 or other capitalized costs that were in-
24 curred after the effective date of the con-
25 tract, were not reflected in the rate sched-

1 ule referred to in clause (i), or were not
2 properly assignable to the water users as-
3 sociation, and were incurred as a result of
4 a collective annual allocation of capital
5 costs to the water users association elect-
6 ing contract conversion under this sub-
7 section, shall be repaid—

8 (I) for costs equal to less than
9 \$5,000,000, by not later than the date
10 that is 5 years after the date of notifi-
11 cation of the allocation; or

12 (II) for costs equal to \$5,000,000
13 or more, in accordance with applicable
14 reclamation laws;

15 (iii) provide that power revenues will
16 not be available to aid in repayment of
17 construction costs allocated to irrigation
18 under the contract; and

19 (iv) continue in effect for the period
20 during which the water users association
21 pays applicable charges in accordance with
22 section 9(d) of the Act of August 4, 1939
23 (53 Stat. 1195, chapter 418), and other
24 applicable law.

1 (3) TREATMENT.—A contract entered into pur-
2 suant to this subsection—

3 (A) shall not be adjusted on the basis of
4 the type of prepayment financing used by the
5 applicable water users association;

6 (B) shall conform to any other applicable
7 agreement, such as a settlement agreement or
8 a new constructed appurtenant facility agree-
9 ment; and

10 (C) shall not modify any other—

11 (i) water service, repayment, ex-
12 change, or transfer contractual right be-
13 tween the water users association, and the
14 Bureau of Reclamation; or

15 (ii) right, obligation, or relationship of
16 the water users association and an applica-
17 ble landowner in accordance with State
18 law.

19 (d) ACCOUNTING.—

20 (1) ADJUSTMENT.—The amounts paid pursuant
21 to subsection (c) shall be subject to adjustment fol-
22 lowing a final cost allocation by the Secretary.

23 (2) DEFICIENCIES.—

24 (A) IN GENERAL.—If the final cost alloca-
25 tion under paragraph (1) indicates that the

1 costs properly assignable to a water users asso-
2 ciation are greater than the costs paid by the
3 water users association, the water users associa-
4 tion shall be obligated to pay to the Secretary
5 the remaining allocated costs under an addi-
6 tional repayment contract under subparagraph
7 (B).

8 (B) ADDITIONAL REPAYMENT CON-
9 TRACTS.—An additional repayment contract re-
10 quired by subparagraph (A) shall—

11 (i) have a term of—

12 (I) not less than 1 year; and

13 (II) not more than 10 years; and

14 (ii) include such mutually agreeable
15 provisions regarding the rate of repayment
16 of the deficient amount as may be devel-
17 oped by the parties.

18 (3) OVERPAYMENTS.—If the final cost alloca-
19 tion under paragraph (1) indicates that the costs
20 properly assignable to a water users association are
21 less than the costs paid by the water users associa-
22 tion, the Secretary shall credit the amount of the
23 overpayment as an offset against any outstanding or
24 future obligation of the water users association with
25 the exception of Restoration Fund charges pursuant

1 to section 3407(d) of Public Law 102–575 (106
2 Stat. 4727).

3 (e) APPLICABILITY OF CERTAIN PROVISIONS.—

4 (1) EFFECT OF EXISTING LAW.—On compliance
5 by a water users association with, and discharge of
6 the obligation of repayment of the construction costs
7 pursuant to, a contract entered into under to sub-
8 section (c)(2)(B), subsections (a) and (b) of section
9 213 of the Reclamation Reform Act of 1982 (43
10 U.S.C. 390mm) shall apply to any affected land.

11 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
12 ligation of a water users association to repay any
13 construction costs or other capitalized cost described
14 in subparagraph (A)(ii) or (B)(ii) of subsection
15 (c)(2), or subsection (d), shall not, on repayment, af-
16 fect—

17 (A) the status of the water users associa-
18 tion as having repaid all of the construction
19 costs assignable to the water users association;
20 or

21 (B) the applicability of subsection (a) or
22 (b) of section 213 of the Reclamation Reform
23 Act of 1982 (43 U.S.C. 390mm).

24 (f) EFFECT OF SECTION.—Nothing in this section—

1 (1) alters the repayment obligation of any water
2 service or repayment contractor receiving water from
3 a water project, or shifts any costs that would other-
4 wise have been properly assignable to a water users
5 association described in subsection (c) or another
6 contractor, absent this section, including operation
7 and maintenance costs, construction costs, or other
8 capitalized costs incurred after the date of enact-
9 ment of this Act;

10 (2) alters any specific requirement for the dis-
11 position of amounts received as repayments by the
12 Secretary under the reclamation laws; or

13 (3) except as expressly provided in this section,
14 alters any obligations under the reclamation law, in-
15 cluding the continuation of Restoration Fund
16 charges pursuant to section 3407(d) of Public Law
17 102–575 (106 Stat. 4727), of the water service and
18 repayment contractors making prepayments pursu-
19 ant to this section.

○