

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend Public Law 103–434 to authorize Phase III of the Yakima River Basin Water Enhancement Project for the purposes of improving water management in the Yakima River basin, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill;  
which was read twice and referred to the Committee on

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**A BILL**

To amend Public Law 103–434 to authorize Phase III of the Yakima River Basin Water Enhancement Project for the purposes of improving water management in the Yakima River basin, and for other purposes.

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.**

4 This Act may be cited as the “Yakima River Basin  
5 Water Enhancement Project Phase III Act of 2015”.

6 **SEC. 2. MODIFICATION OF TERMS, PURPOSES, AND DEFINI-**  
7 **TIONS.**

8 (a) MODIFICATION OF TERMS.—

1           (1) IN GENERAL.—Title XII of Public Law  
2 103–434 (108 Stat. 4550) is amended—

3           (A) by striking “Yakama Indian” each  
4 place it appears and inserting “Yakama”; and

5           (B) by striking “Superintendent” each  
6 place it appears and inserting “Manager”.

7           (2) HEADING AMENDMENTS.—Section 1204 of  
8 Public Law 103–434 (108 Stat. 4555) is amended—

9           (A) in the section heading by striking “**IN-**  
10 **DIAN**”; and

11           (B) in subsection (g), in the subsection  
12 heading, by striking “YAKAMA INDIAN NA-  
13 TION” and inserting “YAKAMA NATION”.

14           (b) MODIFICATION OF PURPOSES.—Section 1201 of  
15 Public Law 103–434 (108 Stat. 4550) is amended—

16           (1) by striking paragraph (1) and inserting the  
17 following:

18           “(1) to protect, mitigate, and enhance fish and  
19 wildlife and the recovery and maintenance of self-  
20 sustaining harvestable populations of fish and other  
21 aquatic life, both anadromous and resident species,  
22 throughout their historic distribution range in the  
23 Yakima Basin through—

24           “(A) improved water management and the  
25 constructions of fish passage at storage and di-

1 version dams, as authorized under the Hoover  
2 Power Plant Act of 1984 (43 U.S.C. 619 et  
3 seq.);

4 “(B) improved instream flows and water  
5 supplies;

6 “(C) improved water quality, watershed,  
7 and ecosystem function;

8 “(D) protection, creation, and enhance-  
9 ment of wetlands; and

10 “(E) other appropriate means of habitat  
11 improvement;”;

12 (2) in paragraph (2), by inserting “, municipal,  
13 industrial, and domestic water supply and use pur-  
14 poses, especially during drought years, including re-  
15 ducing the frequency and severity of water supply  
16 shortages for pro-ratable irrigation entities” before  
17 the semicolon at the end;

18 (3) by striking paragraph (4);

19 (4) by redesignating paragraph (3) as para-  
20 graph (4);

21 (5) by inserting after paragraph (2) the fol-  
22 lowing:

23 “(3) to authorize the Secretary to make water  
24 available for purchase or lease for meeting munic-

1 ipal, industrial, and domestic water supply pur-  
2 poses;”;

3 (6) in paragraph (5), by striking “and” at the  
4 end;

5 (7) in paragraph (6), by striking the period at  
6 the end and inserting a semicolon; and

7 (8) by adding at the end the following:

8 “(7) to improve the resilience of the ecosystems,  
9 economies, and communities in the Basin as they  
10 faced drought, climate variability, and climate  
11 change, for the benefit of both the people and the  
12 fish and wildlife of the region; and

13 “(8) to authorize and implement the Yakima  
14 River Basin Integrated Water Resources Manage-  
15 ment Plan as Phase III of the Yakima River Basin  
16 Water Enhancement Project, in a balanced approach  
17 to maximize benefits to the communities and envi-  
18 ronment in the Basin.”.

19 (c) MODIFICATION OF DEFINITIONS.—Section 1202  
20 of Public Law 103–434 (108 Stat. 4550) is amended—

21 (1) by redesignating paragraphs (6), (7), (8),  
22 (9), (10), (11), (12), (13), and (14) as paragraphs  
23 (7), (10), (11), (12), (13), (14), (15), (17), and  
24 (19), respectively;

1           (2) by inserting after paragraph (5) the fol-  
2           lowing:

3           “(6) DESIGNATED FEDERAL OFFICIAL.—The  
4           term ‘designated Federal official’ means the Com-  
5           missioner of Reclamation (or a designee), acting  
6           pursuant to the charter of the Conservation Advisory  
7           Group.”;

8           (3) by inserting after paragraph (7) (as redesign-  
9           nated by paragraph (1)) the following:

10          “(8) MANAGEMENT PLAN.—The term ‘Manage-  
11          ment Plan’ means the plan described in the docu-  
12          ment entitled ‘Final Programmatic Environmental  
13          Impact Statement and Integrated Water Resource  
14          Management Plan, Yakima River Basin, Water En-  
15          hancement Project, Benton, Kittitas, Klickitat, and  
16          Yakima Counties, WA’ (77 Fed. Reg. 12076 (Feb-  
17          ruary 28, 2012)).

18          “(9) MUNICIPAL, INDUSTRIAL, AND DOMESTIC  
19          WATER SUPPLY AND USE.—The term ‘municipal, in-  
20          dustrial, and domestic water supply and use’ means  
21          the supply and use of water for—

22                 “(A) domestic consumption (whether urban  
23                 or rural);

24                 “(B) maintenance and protection of public  
25                 health and safety;

1           “(C) manufacture, fabrication, processing,  
2           assembly, or other production of a good or com-  
3           modity;

4           “(D) production of energy;

5           “(E) fish hatcheries; or

6           “(F) any conservation activity relating to a  
7           use described in any of subparagraphs (A)  
8           through (E).”;

9           (4) by inserting after paragraph (15) (as reded-  
10          signed by paragraph (1)) the following:

11          “(16) WORK GROUP.—The term ‘Work Group’  
12          means the work group that—

13                 “(A) is identified in section 90.38.010(2)  
14                 of the Revised Code of Washington as respon-  
15                 sible for development of the Management Plan;

16                 “(B) includes representatives of—

17                         “(i) the Yakama Nation;

18                         “(ii) Federal and State governments;

19                         “(iii) participating county and city  
20                         governments;

21                         “(iv) environmental organizations; and

22                         “(v) irrigation districts; and

23                 “(C) is not subject to the Federal Advisory  
24          Committee Act (5 U.S.C. App.).”; and

1 (5) by inserting after paragraph (17) (as reded-  
2 igned by paragraph (1)) the following:

3 “(18) YAKIMA ENHANCEMENT PROJECT; YAK-  
4 IMA RIVER BASIN WATER ENHANCEMENT  
5 PROJECT.—The terms ‘Yakima Enhancement  
6 Project’ and ‘Yakima River Basin Water Enhance-  
7 ment Project’ mean the Yakima River basin water  
8 enhancement project authorized by Congress pursu-  
9 ant to this Act and other Acts (including Public Law  
10 96–162 (93 Stat. 1241), section 109 of Public Law  
11 98–381 (16 U.S.C. 839b note; 98 Stat. 1340), Pub-  
12 lic Law 105–62 (111 Stat. 1320), and Public Law  
13 106–372 (114 Stat. 1425)) to promote water con-  
14 servation, water supply, habitat, and stream en-  
15 hancement improvements in the Yakima River  
16 basin.”.

17 **SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PRO-**  
18 **GRAM.**

19 Section 1203 of Public Law 103–434 (108 Stat.  
20 4551) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (1), by striking “title”  
23 and inserting “section”; and

1 (B) in paragraph (2), by striking “irriga-  
2 tion” and inserting “the number of irrigated  
3 acres”;

4 (2) in subsection (c)—

5 (A) in paragraph (2)—

6 (i) in each of subparagraphs (A)  
7 through (D), by striking the comma at the  
8 end and inserting a semicolon;

9 (ii) in subparagraph (E), by striking  
10 the comma at the end and inserting “;  
11 and”;

12 (iii) in subparagraph (F), by striking  
13 “Department of Wildlife of the State of  
14 Washington, and” and inserting “Depart-  
15 ment of Fish and Wildlife of the State of  
16 Washington.”; and

17 (iv) by striking subparagraph (G);

18 (B) in paragraph (3)—

19 (i) in each of subparagraphs (A)  
20 through (C), by striking the comma at the  
21 end and inserting a semicolon;

22 (ii) in subparagraph (D), by striking  
23 “, and” and inserting a semicolon;



1 (iii) in subparagraph (E), by striking  
2 the period at the end and inserting “;  
3 and”; and

4 (iv) by adding at the end the fol-  
5 lowing:

6 “(F) provide recommendations to advance  
7 the purposes and programs of the Yakima En-  
8 hancement Project.”; and

9 (C) by striking paragraph (4) and insert-  
10 ing the following:

11 “(4) DESIGNATED FEDERAL OFFICIAL.—The  
12 designated Federal official—

13 “(A) shall arrange and provide logistical  
14 support for meetings of the Conservation Advi-  
15 sory Group;

16 “(B) may use a facilitator to serve as a  
17 moderator for meetings of the Conservation Ad-  
18 visory Group or provide additional logistical  
19 support; and

20 “(C) shall grant any request for a  
21 facilitator by any member of the Conservation  
22 Advisory Group.”;

23 (3) in subsection (d), by adding at the end the  
24 following:

1           “(4) PAYMENT OF LOCAL SHARE BY STATE OR  
2 FEDERAL GOVERNMENT.—The State or the Federal  
3 Government may fund not more than the 17.5 per-  
4 cent local share of the costs of the Basin Conserva-  
5 tion Program in exchange for the long-term use of  
6 conserved water.”;

7           (4) in subsection (e), by striking the first sen-  
8 tence and inserting the following: “To participate in  
9 the Basin Conservation Program, as described in  
10 subsection (b), an entity shall submit to the Sec-  
11 retary a proposed water conservation plan.”;

12           (5) in subsection (i)(3)—

13           (A) by striking “purchase or lease” each  
14 place it appears and inserting “purchase, lease,  
15 or management”; and

16           (B) in the third sentence, by striking  
17 “made immediately upon availability” and all  
18 that follows through “Committee” and inserting  
19 “continued as needed to provide water to be  
20 used by the Yakima Project Manager as rec-  
21 ommended by the System Operations Advisory  
22 Committee and the Conservation Advisory  
23 Group”; and

24           (6) in subsection (j)(4), in the first sentence, by  
25 striking “initial acquisition” and all that follows

1 through “flushing flows” and inserting “acquisition  
2 of water from willing sellers or lessors specifically to  
3 provide improved instream flows for anadromous  
4 and resident fish and other aquatic life, including  
5 pulse flows to facilitate outward migration of anad-  
6 romous fish”.

7 **SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS,**  
8 **AND AUTHORIZATIONS.**

9 (a) YAKIMA NATION PROJECTS.—Section 1204(a)(2)  
10 of Public Law 103–434 (108 Stat. 4556) is amended in  
11 the first sentence by striking “not more than  
12 \$23,000,000” and inserting “not more than \$49,000,000,  
13 at September 2000 prices, plus or minus such amounts  
14 as may be justified by reason of ordinary fluctuations of  
15 applicable cost indexes,”.

16 (b) OPERATION OF YAKIMA BASIN PROJECTS.—Sec-  
17 tion 1205 of Public Law 103–434 (108 Stat. 4557) is  
18 amended—

19 (1) in subsection (a)—

20 (A) in paragraph (4)—

21 (i) in subparagraph (A)—

22 (I) in clause (i)—

23 (aa) by inserting “addi-  
24 tional” after “secure”;

1 (bb) by striking “flushing”  
2 and inserting “pulse”; and

3 (cc) by striking “uses” and  
4 inserting “uses, in addition to the  
5 quantity of water provided under  
6 the treaty between the Yakama  
7 Nation and the United States”;

8 (II) by striking clause (ii);

9 (III) by redesignating clause (iii)  
10 as clause (ii); and

11 (IV) in clause (ii) (as so redesign-  
12 nated) by inserting “and water rights  
13 mandated” after “goals”;

14 (ii) in subparagraph (B)—

15 (I) in clause (i), in the first sen-  
16 tence, by inserting “in proportion to  
17 the funding received” after “Pro-  
18 gram”; and

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

21 “(iii) CALCULATIONS AND DETER-  
22 MINATIONS.—The Yakima Project Man-  
23 ager shall—

24 “(I) calculate the total amount of  
25 water conserved and acquired;

1                   “(II) determine the amount of  
2                   water available each year for the pur-  
3                   pose of delivering or storing Project  
4                   water for instream flows at variable  
5                   rates (shaping), considering Yakima  
6                   Project operational constraints; and

7                   “(III) in consultation with the  
8                   System Operations Advisory Com-  
9                   mittee, determine how and when the  
10                  available water will be delivered or  
11                  stored.

12                  “(iv) USE OF CERTAIN PORTION.—  
13                  The Yakima Project Manager, in consulta-  
14                  tion with the Systems Operations Advisory  
15                  Committee, irrigation districts, and the  
16                  Conservation Advisory Group, may acquire,  
17                  manage, and use all or a portion of the ir-  
18                  rigation district’s  $\frac{1}{3}$  portion of the saved  
19                  water resulting from conservation meas-  
20                  ures taken under this title to increase tar-  
21                  get flows or otherwise deliver Yakima  
22                  Project water for instream flows. The right  
23                  to use that water must be acquired by the  
24                  Bureau of Reclamation or the State of  
25                  Washington, in partnership with the Bu-

1 reau of Reclamation, from any willing irri-  
2 gation district seller through purchase, do-  
3 nation, or lease. During drought years,  
4 when the Yakima Project proration level is  
5 set at 70 percent or less of full entitle-  
6 ment, the  $\frac{1}{3}$  portion of the saved water ac-  
7 quired under this title may be used to sup-  
8 plement the irrigation districts' and other  
9 entities' water supply under the total water  
10 supply available only if the saved water is  
11 in priority during that time, unless provi-  
12 sions are made to the contrary as a condi-  
13 tion of purchase.”; and

14 (iii) by striking subparagraph (D);

15 and

16 (B) by striking paragraph (6);

17 (2) in subsection (b) (as amended by section  
18 2(a)(1)(B)), in the second sentence, by striking  
19 “instream flows for use by the Yakima Project Man-  
20 ager as flushing flows or as otherwise” and inserting  
21 “fishery purposes, as”; and

22 (3) in subsection (e), by striking paragraph (1)  
23 and inserting the following:

24 “(1) IN GENERAL.—Additional purposes of the  
25 Yakima Project shall be any of the following:



1                   “(iii) to conduct feasibility studies and  
2                   to design, construct, operate, and maintain  
3                   fish passage facilities, in addition to any  
4                   fish passage facilities authorized by section  
5                   109 of the Hoover Power Plant Act of  
6                   1984 (16 U.S.C. 839b note; Public Law  
7                   98–381), as determined to be feasible and  
8                   appropriate within the Yakima River basin;  
9                   plus”;

10                   (2) by redesignating paragraphs (1) and (2) as  
11                   subparagraphs (A) and (B), respectively, and indent-  
12                   ing the subparagraphs appropriately;

13                   (3) in the matter preceding subparagraph (A)  
14                   (as so redesignated), by striking “There is hereby”  
15                   and inserting the following:

16                   “(1) IN GENERAL.—There is”; and

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

18                   “(2) COST SHARING.—

19                   “(A) IN GENERAL.—The Secretary may  
20                   accept as part of the non-Federal cost-share,  
21                   and expend as if appropriated, any contribution  
22                   by the State of Washington or others, including  
23                   in-kind services, that the Secretary determines  
24                   will contribute toward the conduct and comple-  
25                   tion of the work.



1                   “(B) FEDERAL SHARE.—The Federal cost-  
2                   share for the project shall not exceed 50 per-  
3                   cent of the total cost of the projects described  
4                   in paragraph (1).”.

5           (d) ENHANCEMENT OF WATER SUPPLIES FOR YAK-  
6 IMA BASIN TRIBUTARIES.—Section 1207 of Public Law  
7 103–434 (108 Stat. 4560) is amended—

8           (1) in subsection (a)—

9                   (A) in the matter preceding paragraph (1),  
10                  by striking “supplies” and inserting “manage-  
11                  ment”;

12                  (B) in paragraph (1), by inserting “and  
13                  water supply entities” after “owners”; and

14                  (C) in paragraph (2)—

15                   (i) in subparagraph (A), by inserting  
16                   “that choose not to participate or opt out  
17                   of tributary enhancement projects pursu-  
18                   ant to this section” after “water right own-  
19                   ers”; and

20                   (ii) in subparagraph (B), by inserting  
21                   “nonparticipating” before “tributary water  
22                   users”;

23           (2) in subsection (b)—

24                  (A) in paragraph (1)—

1 (i) by striking the paragraph designa-  
2 tion and all that follows through “(but not  
3 limited to)—” and inserting the following:

4 “(1) IN GENERAL.—The Secretary, following  
5 consultation with the State of Washington, the  
6 Yakama Nation, and on agreement of appropriate  
7 water supply entities, is authorized to conduct stud-  
8 ies to evaluate measures to further Yakima Project  
9 purposes on tributaries to the Yakima River. En-  
10 hancement programs that use measures authorized  
11 by this section may be investigated and implemented  
12 by the Secretary in tributaries, including Taneum  
13 Creek, other areas, or tributary basins that currently  
14 or could potentially be provided supplemental or  
15 transfer water by entities, such as the Kittitas Rec-  
16 lamation District or the Yakima-Tieton Irrigation  
17 District. Measures to evaluate include—”;

18 (ii) by indenting subparagraphs (A)  
19 through (F) appropriately;

20 (iii) in subparagraph (A), by inserting  
21 before the semicolon at the end the fol-  
22 lowing: “, including irrigation efficiency  
23 improvements (in coordination with pro-  
24 grams of the Department of Agriculture),  
25 consolidation of diversions or administra-

1                   tion, and diversion scheduling or coordina-  
2                   tion”;

3                   (iv) by redesignating subparagraphs  
4                   (C) through (F) as subparagraphs (E)  
5                   through (H), respectively;

6                   (v) by inserting after subparagraph  
7                   (B) the following:

8                   “(C) improvements in irrigation system  
9                   management or delivery facilities within the  
10                  Yakima River basin when those improvements  
11                  allow for increased irrigation system conveyance  
12                  and corresponding reduction in diversion from  
13                  tributaries or flow enhancements to tributaries  
14                  through direct flow supplementation or ground-  
15                  water recharge;

16                  “(D) improvements of irrigation system  
17                  management or delivery facilities to reduce or  
18                  eliminate excessively high flows caused by the  
19                  use of natural streams for conveyance or irriga-  
20                  tion water or return water;”;

21                  (vi) in subparagraph (E) (as redesign-  
22                  ated by clause (iv)), by striking “ground  
23                  water” and inserting “groundwater re-  
24                  charge and”;

1 (vii) in subparagraph (G) (as redesignated by clause (iv)), by inserting “or  
2 transfer” after “purchase”; and

3  
4 (viii) in subparagraph (H) (as redesignated by clause (iv)), by inserting “stream  
5 processes and” before “stream habitats”;

6  
7 (B) in paragraph (2)—

8 (i) in the matter preceding subparagraph (A), by striking “the Taneum Creek  
9 study” and inserting “studies under this  
10 subsection”;

11  
12 (ii) in subparagraph (B)—

13 (I) by striking “and economic”  
14 and inserting “, infrastructure, economic, and land use”; and

15  
16 (II) by striking “and” at the end;

17 (iii) in subparagraph (C), by striking  
18 the period at the end and inserting “;  
19 and”; and

20 (iv) by adding at the end the following:  
21

22 “(D) any related studies already underway  
23 or undertaken.”; and

1 (C) in paragraph (3), in the first sentence,  
2 by inserting “of each tributary or group of trib-  
3 utaries” after “study”;

4 (3) in subsection (e), in the matter preceding  
5 paragraph (1), by inserting “nonsurface storage  
6 and” after “implement”;

7 (4) by striking subsection (d);

8 (5) by redesignating subsection (e) as sub-  
9 section (d); and

10 (6) in paragraph (2) of subsection (d) (as so re-  
11 designated)—

12 (A) in the first sentence—

13 (i) by inserting “and implementation”  
14 after “investigation”;

15 (ii) by striking “other” before “Yak-  
16 ima River”; and

17 (iii) by inserting “and other water  
18 supply entities” after “owners”; and

19 (B) by striking the second sentence.

20 (e) CHANDLER PUMPING PLANT AND POWERPLANT-  
21 OPERATIONS AT PROSSER DIVERSION DAM.—Section  
22 1208(d) of Public Law 103–434 (108 Stat. 4562; 114  
23 Stat. 1425) is amended by inserting “negatively” before  
24 “affected”.

1 (f) INTERIM COMPREHENSIVE BASIN OPERATING  
2 PLAN.—Section 1210(e) of Public Law 103–434 (108  
3 Stat. 4564) is amended by striking “\$100,000” and in-  
4 serting “\$200,000, at September 2014 prices,”.

5 (g) ENVIRONMENTAL COMPLIANCE.—Section 1211  
6 of Public Law 103–434 (108 Stat. 4564) is amended by  
7 inserting “, at September 2014 prices,” after  
8 “\$2,000,000”.

9 **SEC. 5. AUTHORIZATION OF PHASE III OF YAKIMA RIVER**  
10 **BASIN WATER ENHANCEMENT PROJECT.**

11 Title XII of Public Law 103–434 (108 Stat. 4550)  
12 is amended by adding at the end the following:

13 **“SEC. 1213. PHASE III GRANTS AND COOPERATIVE AGREE-**  
14 **MENTS.**

15 “The Secretary may make grants or enter into coop-  
16 erative agreements with the Yakama Nation, the State of  
17 Washington, Yakima River basin irrigation districts, water  
18 districts, conservation districts, other local governmental  
19 entities, nonprofit organizations, and land owners to carry  
20 out this title under such terms and conditions as the Sec-  
21 retary may require, including the following purposes:

22 “(1) Land and water transfers, leases, and ac-  
23 quisitions from willing participants, so long as the  
24 acquiring entity shall hold title and be responsible

1 for any and all required operations, maintenance,  
2 and management of that land and water.

3 “(2) Operation and maintenance or manage-  
4 ment of Federal land acquired under this title, in  
5 partnership with the Secretary.

6 “(3) To combine or relocate diversion points,  
7 remove fish barriers, or for other activities that in-  
8 crease flows or improve habitat in the Yakima River  
9 and its tributaries in furtherance of this title.

10 “(4) To implement, in partnership with Federal  
11 and non-Federal entities, projects to enhance the  
12 health and resilience of the watershed, subject to the  
13 condition that if such a grant or cooperative agree-  
14 ment results in a direct benefit to a project bene-  
15 ficiary, the Secretary may determine that the costs  
16 are reimbursable.

17 **“SEC. 1214. AUTHORIZATION OF PHASE III OF YAKIMA**  
18 **RIVER BASIN WATER ENHANCEMENT**  
19 **PROJECT.**

20 “(a) MANAGEMENT PLAN IMPLEMENTATION.—

21 “(1) IN GENERAL.—It is the intent of Congress  
22 that the Management Plan shall be implemented in  
23 its entirety, in accordance with applicable laws.

24 “(2) INITIAL DEVELOPMENT PHASE.—





1 (known as the ‘Kachess Drought Re-  
2 lief Pumping Plant’), as set forth in  
3 the applicable feasibility study or re-  
4 port; and

5 “(II) a conveyance system to  
6 allow transfer of water between  
7 Keechelus Reservoir to Kachess Res-  
8 ervoir for purposes of improving oper-  
9 ational flexibility for the benefit of  
10 both fish and irrigation (known as the  
11 ‘K to K Pipeline’), as set forth in the  
12 applicable feasibility study or report;  
13 and

14 “(iii) participate in, provide funding  
15 for, and accept non-Federal financing  
16 for—

17 “(I) water conservation projects,  
18 not subject to the provisions of the  
19 Basin Conservation Program de-  
20 scribed in section 1203, that are in-  
21 tended to partially implement the  
22 Management Plan by providing  
23 85,000 acre-feet of conserved water to  
24 improve tributary and mainstem  
25 stream flow; and

1                   “(II) aquifer storage and recov-  
2                   ery projects benefitting all beneficial  
3                   uses.

4                   “(B) COMMENCEMENT DATE.—The Initial  
5                   Development Phase under this paragraph shall  
6                   commence on the date of enactment of this sec-  
7                   tion.

8                   “(3) INTERMEDIATE AND FINAL PHASES.—

9                   “(A) IN GENERAL.—During the Inter-  
10                  mediate and Final Development Phases of the  
11                  Management Plan, any project that is deter-  
12                  mined by Secretary, in consultation with the  
13                  State of Washington and Work Group, to be  
14                  appropriate to meet the objectives of the Man-  
15                  agement Plan shall be designed and con-  
16                  structed, subject to authorization and appro-  
17                  priation.

18                  “(B) INTERMEDIATE PHASE.—It is the in-  
19                  tent of Congress that the Intermediate Develop-  
20                  ment Phase of the Management Plan shall com-  
21                  mence not later than 10 years after the date of  
22                  enactment of this section.

23                  “(C) FINAL PHASE.—It is the intent of  
24                  Congress that the Final Development Phase of  
25                  the Management Plan shall commence not later

1 than 20 years after the date of enactment of  
2 this section.

3 “(D) FEASIBILITY CONTINGENCY.—The  
4 Intermediate and Final Development Phases of  
5 the Management Plan shall be contingent on  
6 feasibility, as determined by the Secretary, in  
7 consultation with the Work Group, and in com-  
8 pliance with applicable laws.

9 “(4) PROGRESS REPORT.—

10 “(A) IN GENERAL.—Not later than 5 years  
11 after the date of enactment of this section, the  
12 Secretary, in conjunction with the State of  
13 Washington and in consultation with the Work  
14 Group, shall submit to the Committee on En-  
15 ergy and Natural Resources of the Senate and  
16 the Committee on Natural Resources of the  
17 House of Representatives a progress report that  
18 shall serve as a supplement to the Management  
19 Plan.

20 “(B) REQUIREMENTS.—The progress re-  
21 port under this paragraph shall—

22 “(i) provide a review and reassess-  
23 ment, if needed, of the objectives of the  
24 Management Plan, as applied to all ele-  
25 ments of the Management Plan;

1                   “(ii) assess, through performance  
2 metrics measured throughout implementa-  
3 tion of the Management Plan, the degree  
4 to which the Initial Phase addresses the  
5 objectives and all elements of the Manage-  
6 ment Plan;

7                   “(iii) identify additional projects and  
8 activities proposed for inclusion in any fu-  
9 ture phase of the Management Plan to ad-  
10 dress the objectives of the Management  
11 Plan, as applied to all elements of the  
12 Management Plan; and

13                   “(iv) for water supply projects—

14                   “(I) provide a preliminary discus-  
15 sion of the means by which—

16                   “(aa) water and costs asso-  
17 ciated with each recommended  
18 project would be allocated among  
19 authorized uses; and

20                   “(bb) those allocations  
21 would be consistent with the ob-  
22 jectives of the Management Plan;  
23 and

24                   “(II) establish a plan for solici-  
25 iting and formalizing subscriptions

1 among individuals and entities for  
2 participation in any of the rec-  
3 ommended water supply projects that  
4 will establish the terms for participa-  
5 tion, including fiscal obligations asso-  
6 ciated with subscription.

7 “(b) OPERATION AND MAINTENANCE OF KACHESS  
8 DROUGHT RELIEF PUMPING PLANT AND K TO K PIPE-  
9 LINE.—

10 “(1) USE OF LAKE KACHESS STORED WATER.—

11 The additional stored water made available by the  
12 construction of facilities to access and deliver inac-  
13 tive storage in Lake Kachess under subsection  
14 (a)(2)(A)(ii)(I) shall—

15 “(A) be considered to be Yakima Project  
16 water;

17 “(B) not be part of the total water supply  
18 available, as that term is defined in various  
19 court rulings; and

20 “(C) be used exclusively by the Sec-  
21 retary—

22 “(i) to enhance the water supply in  
23 years when the total water supply available  
24 is not sufficient to provide 70 percent of  
25 proratable entitlements in order to make

1 that additional water available up to 70  
2 percent of proratable entitlements to the  
3 Kittitas Reclamation District, the Roza Ir-  
4 rigation District, or other proratable irri-  
5 gation entities participating in the con-  
6 struction, operation, and maintenance  
7 costs of the facilities under this title under  
8 such terms and conditions to which the  
9 districts may agree, subject to the condi-  
10 tions that—

11 “(I) the Bureau of Indian Af-  
12 fairs, the Wapato Irrigation Project,  
13 and the Yakama Nation, on an elec-  
14 tion to participate, may also obtain  
15 water from Lake Kachess inactive  
16 storage to enhance applicable existing  
17 irrigation water supply in accordance  
18 with such terms and conditions to  
19 which the Bureau of Indian Affairs  
20 and the Yakama Nation may agree;  
21 and

22 “(II) the additional supply made  
23 available under this subparagraph  
24 shall be available to participating indi-  
25 viduals and entities in proportion to

1                   the proratable entitlements of the par-  
2                   ticipating individuals and entities; and  
3                   “(ii) to facilitate reservoir operations  
4                   in the reach of the Yakima River between  
5                   Keechelus Dam and Easton Dam for the  
6                   propagation of anadromous fish.

7                   “(2) ELECTRICAL POWER ASSOCIATED WITH  
8                   KACHESS DROUGHT RELIEF PUMPING PLANT.—The  
9                   Administrator of the Bonneville Power Administra-  
10                  tion, pursuant to the Pacific Northwest Electric  
11                  Power Planning and Conservation Act (16 U.S.C.  
12                  839 et seq.), shall provide to the Secretary project  
13                  power to operate the Kachess Pumping Plant con-  
14                  structed under this title whenever inactive storage in  
15                  Lake Kachess is needed to provide drought relief for  
16                  irrigation. The Administrator shall provide the  
17                  power at the then-applicable lowest Bonneville Power  
18                  Administration rate for public body, cooperative, and  
19                  Federal agency customers firm obligations, which as  
20                  of the date of enactment of this section is the pri-  
21                  ority firm Tier 1 rate, and shall not include any irri-  
22                  gation discount. At all other times, power needed to  
23                  operate the Kachess Pumping Plant shall be ob-  
24                  tained by the Secretary from a local provider. The  
25                  cost of power for such pumping, station service

1 power, and all costs of transmitting power from the  
2 Federal Columbia River Power System to the Yak-  
3 ima Enhancement Project pumping facilities shall be  
4 borne by irrigation districts receiving the benefits of  
5 that water. The Commissioner of Reclamation shall  
6 be responsible for arranging transmission for deliv-  
7 eries of Federal power over the Bonneville system  
8 through applicable tariff and business practice proc-  
9 esses of the Bonneville system and for arranging  
10 transmission for deliveries of power obtained from a  
11 local provider. The cost of the power shall be cred-  
12 ited to fishery restoration goals of the Columbia  
13 River fish and wildlife program.

14 “(c) DESIGN AND USE OF GROUNDWATER RE-  
15 CHARGE PROJECTS.—

16 “(1) IN GENERAL.—Any water supply that re-  
17 sults from an aquifer storage and recovery project  
18 shall not be considered to be a part of the total  
19 water supply available if—

20 “(A) the water for the aquifer storage and  
21 recovery project would not be available for use,  
22 but instead for the development of the project;

23 “(B) the aquifer storage and recovery  
24 project will not otherwise impair any water sup-



1           ply available for any individual or entity entitled  
2           to use the total water supply available;

3           “(C) the development of the aquifer stor-  
4           age and recovery project will not impair fish or  
5           other aquatic life in any localized stream reach;  
6           and

7           “(D) the aquifer storage and recovery  
8           project is approved by the Work Group.

9           “(2) PROJECT TYPES.—The Secretary may de-  
10          sign, implement, and otherwise participate in  
11          groundwater recharge projects of any of the fol-  
12          lowing 3 types:

13                 “(A) Aquifer recharge projects designed to  
14                 redistribute Yakima Project water within a  
15                 water year for the purposes of supplementing  
16                 stream flow during the irrigation season, par-  
17                 ticularly during storage control, subject to the  
18                 condition that if such a project is designed to  
19                 supplement a mainstem reach, the water supply  
20                 that results from the project shall be credited to  
21                 instream flow targets, in lieu of using the total  
22                 water supply available to meet those targets.

23                 “(B) Aquifer storage and recovery projects  
24                 that are designed, within a given water year or  
25                 over multiple water years—

1                   “(i) to supplement or mitigate for mu-  
2                   nicipal uses;

3                   “(ii) to supplement municipal supply  
4                   in a subsurface aquifer; or

5                   “(iii) to mitigate the effect of ground-  
6                   water use on instream flow or senior water  
7                   rights.

8                   “(C) Aquifer storage and recovery projects  
9                   designed to supplement existing irrigation water  
10                  supply, or to store water in subsurface aquifers,  
11                  for use by the Kittitas Reclamation District,  
12                  the Roza Irrigation District, or any other pro-  
13                  ratale irrigation entity participating in the re-  
14                  payment of the construction, operation, and  
15                  maintenance costs of the facilities under this  
16                  section during years in which the total water  
17                  supply available is insufficient to provide to  
18                  those proratable irrigation entities all water to  
19                  which the entities are entitled, subject to the  
20                  conditions that—

21                  “(i) the Bureau of Indian Affairs, the  
22                  Wapato Irrigation Project, and the  
23                  Yakama Nation, on an election to partici-  
24                  pate, may also obtain water from aquifer  
25                  storage to enhance applicable existing irri-

1                   gation water supply in accordance with  
2                   such terms and conditions to which the  
3                   Bureau of Indian Affairs and the Yakama  
4                   Nation may agree; and

5                   “(ii) nothing in this subparagraph af-  
6                   fects any existing contract, law (including  
7                   regulations) relating to repayment costs, or  
8                   water rights.

9                   “(d) FEDERAL COST-SHARE.—

10                   “(1) IN GENERAL.—The Federal cost-share of a  
11                   project carried out under this section shall be deter-  
12                   mined in accordance with the applicable laws (in-  
13                   cluding regulations) and policies of the Bureau of  
14                   Reclamation.

15                   “(2) INITIAL PHASE.—The Federal cost-share  
16                   for the Initial Development Phase of the Manage-  
17                   ment Plan under subsection (a)(2), including the re-  
18                   imbursable share to be repaid by non-Federal project  
19                   contractors, shall not exceed 50 percent of the total  
20                   cost of the initial development phase.

21                   “(3) STATE AND OTHER CONTRIBUTIONS.—The  
22                   Secretary may accept as part of the non-Federal  
23                   cost-share of a project carried out under this section,  
24                   and expend as if appropriated, any contribution (in-  
25                   cluding in-kind services) by the State of Washington

1 or any other individual or entity that the Secretary  
2 determines will enhance the conduct and completion  
3 of the project.

4 “(e) SAVINGS AND CONTINGENCIES.—Nothing in this  
5 section shall—

6 “(1) be a new or supplemental benefit for pur-  
7 poses of the Reclamation Reform Act of 1982 (43  
8 U.S.C. 390aa et seq.);

9 “(2) affect any contract in existence on the date  
10 of enactment of the Yakima River Basin Water En-  
11 hancement Project Phase III Act of 2015 that was  
12 executed pursuant to the reclamation laws;

13 “(3) affect any contract or agreement between  
14 the Bureau of Indian Affairs and the Bureau of  
15 Reclamation; or

16 “(4) affect, waive, abrogate, diminish, define, or  
17 interpret the treaty between the Yakama Nation and  
18 the United States.

19 **“SEC. 1215. OPERATIONAL CONTROL OF WATER SUPPLIES.**

20 “The Secretary shall retain authority and discretion  
21 over the management of project supplies to obtain max-  
22 imum operational use and flexibility to meet all appro-  
23 priated and adjudicated water rights. That authority and  
24 discretion includes the ability of the United States to

- 1 store, deliver, conserve, and reuse water supplies deriving
- 2 from projects authorized under this title.”.