



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
Tuesday, July 28, 2015**

**REGULAR CLOSED SESSION
11:00 a.m., Board Room**

*Director Marguerite Young will participate by telephone from
Plumas County Courthouse, Room 309, 520 Main Street, Quincy, CA 95971*

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

ANNOUNCEMENT OF CLOSED SESSION AGENDA:

1. Existing litigation pursuant to Government Code section 54956.9(d)(1):
 - a. *In Re Municipal Derivatives Antitrust Litigation*
Judicial Panel on Multidistrict Litigation (MDL) Docket No. 1950
No. 08-02516 (VM) (GWG) (S.D.N.Y.)
 - b. *Ivette Rivera v. East Bay Municipal Utility District, et al.*
USDC, N.D. Cal., Case No. C15-00380-DMR

(The Board will hold Closed Session in Conference Room 8A/B)

REGULAR BUSINESS MEETING

1:15 p.m., Board Room

*Director Marguerite Young will participate by telephone from
Plumas County Courthouse, Room 309, 520 Main Street, Quincy, CA 95971*

ROLL CALL:

BOARD OF DIRECTORS:

- Pledge of Allegiance

ANNOUNCEMENTS FROM CLOSED SESSION:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

CONSENT CALENDAR: (Single motion and vote approving 13 recommendations, including 2 Resolutions.)

1. Approve the Regular Meeting Minutes of July 14, 2015.
2. File correspondence with the Board.
3. Award a contract to the lowest responsive/responsible bidder American Industrial Equipment, LLC, in an amount not to exceed \$536,620 to supply four (4) 1-million gallon per day (MGD) trailer-mounted, diesel-powered, centrifugal pumps within an acoustic enclosure, under Request for Quotation (RFQ) No. 1503.
4. Approve the following contracts for the Camanche Water Transmission Pipeline Project:
 - 4.1 Award a contract to the lowest responsive/responsible bidder, General Supply Co. in an amount, after the addition of taxes, not to exceed \$121,500 for supplying 10.75" Outside Diameter HDPE pipe beginning on or after July 29, 2015 under Request for Quotation No.1523.
 - 4.2 Award a contract to the lowest responsive/responsible bidder, California Trenchless, Inc., in the amount of \$1,047,400 for construction of Camanche Water Transmission Pipeline under Specification 2093A.
5. Authorize an agreement beginning on or after July 28, 2015 with eight firms – ADS Corporation; Andes Construction, Inc.; Electro Scan Inc.; Infrastructure Engineering Corporation; Pacific General Engineering; Hoffman Southwest Corporation, dba Professional Pipe Services; Santact Inc., dba Roto-Rooter; and V&A Consulting Engineers, Inc. – to develop a roster for performing inflow and infiltration investigation of the regional wastewater collection system, as required by the wet weather Consent Decree, for 2 years with three options to renew for an additional 1-year period for a total cost not to exceed \$7,100,000.
6. Authorize a contract with Morais Construction/West Coast Docks in the total amount not to exceed \$134,352 to remove existing exposed Styrofoam flotation under the Pardee Reservoir marina and replace with encapsulated tub flotation.
7. Authorize an agreement beginning on or after August 17, 2015 with Pennsylvania Perlite Corporation in an amount not to exceed \$85,000 for removing, storing, and installing insulation material at Oxygen Production Plant No. 1 at the Main Wastewater Treatment Plant.
8. Authorize an agreement beginning on or after July 28, 2015 with Harvest Power California, LLC in an amount not to exceed \$261,000 for preliminary engineering services for design of food waste processing facilities at the Main Wastewater Treatment Plant.

CONSENT CALENDAR: (Continued)

9. Approve the assignment of the compressor service and parts contract to Ingersoll Rand. This contract was previously awarded to Cameron Compression by Board Motion 173-14 on October 28, 2014.
10. Cancel the August 25, 2015 Closed Session and Regular Meetings of the Board of Directors.
11. Approve a resolution supporting San Francisco Bay-Delta Estuary. (Resolution)
12. Approve a resolution supporting the Mokelumne Watershed Interregional Sustainability Evaluation (MokeWISE) Program. (Resolution)

PUBLIC HEARING:

13. Conduct a Public Hearing to consider objections and protests to the General Manager's Report to Transfer Delinquent EBMUD Charges to the 2015-2016 Property Tax Rolls.

DETERMINATION AND DISCUSSION:

14. Adopt the General Manager's Report and authorize the General Manager to exclude from the Report any affected parcels or amounts as appropriate, including those that the District receives payment for on or before the reports are sent to Alameda and Contra Costa counties in electronic form on August 7, 2015. (Resolution)
15. Legislative Update:
 - Receive presentation from State Water Resources Control Board member Steven Moore regarding SB 83 and SB 88.
 - Receive Legislative Report No. 07-15 and receive information on AB 142 (Bigelow) Wild and Scenic Rivers: Mokelumne River; SB 88 (Committee on Budget and Fiscal Review) Water; and H.R. 2898 (Valadao) Western Water and American Food Security Act of 2015; and consider a position on the following bill: H.R. 2983 (Huffman) Drought Recovery and Resilience Act of 2015.
 - Update on Legislative Issues of Interest to EBMUD
16. Water Conservation: Follow-Up to Artificial Turf Discussion at the June 23, 2015 Board Meeting
17. General Manager's Report:
 - 2015 Critical Drought Action Plan Update

REPORTS AND DIRECTOR COMMENTS:

18. Committee Reports:
- Planning
 - Legislative/Human Resources
 - Sustainability/Energy
 - Finance/Administration
19. Director Comments.

ADJOURNMENT:

The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, August 11, 2015 in the Administration Center Board Room, 375 Eleventh Street, Oakland, California.

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours.

BOARD CALENDAR

Date	Meeting	Time/Location	Topics
Tuesday, July 28	Sustainability/Energy Committee Katz {Chair}, Linney, Young Finance/Administration Committee Patterson {Chair}, Katz, Young Board of Directors	9:15 a.m. Training Resource Center 10:15 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Food Waste Program Update Consider a Resolution in Support of San Francisco Bay-Delta Estuary Water Conservation Pay as You Save On-Bill Financing Pilot Study Update Annual Internal Audit Report Financial Quarterly Reports – June 30, 2015 Closed Session Regular Meeting
Tuesday, August 11	Planning Committee McIntosh {Chair}, Linney, Young Legislative/Human Resources Committee Coleman {Chair}, McIntosh, Patterson Board of Directors	9:15 a.m. Training Resource Center 10:15 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting
Tuesday, August 25	Finance/Administration Committee Patterson {Chair}, Katz, Young Board of Directors	10:00 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	
Monday, September 7	Labor Day Holiday		<ul style="list-style-type: none"> District Offices Closed
Tuesday, September 8	Planning Committee McIntosh {Chair}, Linney, Young Legislative/Human Resources Committee Coleman {Chair}, McIntosh, Patterson Board of Directors	9:15 a.m. Training Resource Center 10:15 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting
Wednesday, September 9	Admission Day Holiday		<ul style="list-style-type: none"> District Offices Closed
Tuesday, September 22	Finance/Administration Committee Patterson {Chair}, Katz, Young Board of Directors	10:00 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting

MINUTES

Tuesday, July 14, 2015

**East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

President Frank Mellon called to order the Regular Closed Session Meeting of the Board of Directors at 11:05 a.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Doug Linney (via teleconference), Lesa R. McIntosh, William B. Patterson and President Frank Mellon were present at roll call. Director Andy Katz was absent at roll call but arrived at 11:25 a.m. Director Marguerite Young was absent (excused).

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer and Attorney Lourdes Matthew (Item 1a).

PUBLIC COMMENT

Addressing the Board were the following persons: 1) Ruben Rodriguez, AFSCME Local 444, provided an update on the union's meet and confer meeting with staff regarding food waste preprocessing work; 2) Mark Foley, President, AFSCME Local 2019 asked the Board to direct staff to allow Local 2019 to set up an information table on the 2nd floor of the Administration Building to distribute the local's Memorandum of Understanding (MOU) to its members; 3) M. Rosa Merced, AFSCME Local 2019, asked the Board to direct staff to allow Local 2019 to set up an information table to distribute their MOU; and 4) Jamie MacDonald, AFSCME Local 2019, questioned staff's response to the local's request to set up an information table to distribute their MOU. Following discussion, regarding the union's request, the Board requested an information memo regarding how other public agencies address similar requests.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Frank Mellon announced the closed session agenda. The Board convened to Conference Room 8A/B for discussion.

Regular Business Meeting

President Frank Mellon called to order the Regular Business Meeting of the Board of Directors at 1:20p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney (via teleconference), Lesa R. McIntosh, William B. Patterson and President Frank Mellon were present at roll call. Director Marguerite Young was absent (excused).

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Acting Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Mellon led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

Addressing the Board was Bettye Gavigan, an Orinda customer, who commented about a District easement located in her driveway and asked for the District's help with sharing in the cost of resurfacing her driveway. Ms. Gavigan was referred to Sherri Hong, Manager of Customer and Community Services for assistance.

CONSENT CALENDAR

- Item 13 was removed from the Consent Calendar for discussion.
 - Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-12 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson and Mellon); NOES (None); ABSTAIN (None); ABSENT (Young).
1. **Motion No. 125-15** – Approved the Regular Meeting Minutes of June 23, 2015.
 2. The following correspondence was filed with the Board: 1) memorandum (undated) that contained language from sections 5.3 through 5.5 of the AFSCME Local 2019 2013-2017 MOU and a copy of District Procedure 703 – District Facilities: use by Employee and Outside GroupsM; 2) Documents (undated) entitled “Attachment 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll” and “Attachment 2 - Delinquent EBMUD Charges for Transfer to the Contra Costa County 2015-2016 Property Tax Roll”; and 3) Presentation entitled “Critical Drought Action Plan – July 14, 2015 Update.”
 3. **Motion No. 126-15** – Awarded a contract to the lowest responsive/responsible bidder Pacific Aqua Technologies in an amount, after the addition of taxes, not to exceed \$310,761 for supplying ultrafiltration membrane skids for the District's Camanche Recreation Area beginning on or after July 15, 2015 under Request for Quotation No. 1512.

4. **Motion No. 127-15** – Awarded a contract to the lowest responsive/responsible bidder Pape Machinery, Inc., in the total amount of \$651,275, after the addition of taxes, for supplying five small backhoe loaders for the District Fleet under Request for Quotation No. 1517A.
5. **Motion No. 128-15** – Awarded a contract to the lowest responsive/responsible bidder, L.N. Curtis & Sons, in the estimated annual amount of \$92,351, after the addition of taxes, for supplying work gloves for three years, beginning on or after July 17, 2015, with two options to renew for an additional one-year period for a total amount not to exceed \$461,555 under Request for Quotation No. 1522.
6. **Motion No. 129-15** – Authorized the direct award purchase of two Burlingame Engineers Inc. supplied PolyProcessing polyethylene tanks with fabricated 42-inch epoxy coated steel stands with certified and approved seismic restraint systems in an amount, after the addition of taxes and freight, not to exceed \$138,000.
7. **Motion No. 130-15** – Authorized an amendment to the existing agreement with the City of Oakland (City), to increase the maximum cost ceiling by \$150,000 from \$1,170,000 to \$1,320,000 to relocate approximately 650 feet (each) of 30-inch and 8-inch diameter pipelines as part of the City's Lake Merritt Channel Improvements at 10th Street Project.
8. **Motion No. 131-15** – Authorized an agreement beginning on or after August 1, 2015 with Innovyze in an amount not to exceed \$73,000 annually for software maintenance and support for the InfoWater™ and InfoSurge™ hydraulic modeling software for one year with four options to renew for an additional one-year period for a total cost of \$365,000.
9. **Motion No. 132-15** – Authorized an extension to the existing Western Electricity Coordinating Council Agreement to participate in the Western Renewable Energy Generation Information System from July 14, 2015 to June 30, 2025, in an amount not to exceed \$50,000 for the duration of the agreement.
10. **Motion No. 133-15** – Authorized an amendment to the existing Western Area Power Administration Scheduling Coordinator Services Agreement to extend the termination date from September 30, 2015 to September 30, 2020 in an amount not to exceed \$450,000 for the duration of the agreement.
11. **Motion No. 134-15** – Approved enhancements to the District's Contract Equity Program to:
1) Pilot a local hire component on four targeted construction projects with good faith goals of 50 percent for local residents with 30 percent being from the county(ies) directly impacted by the project, and; 2) Expand the definition of small business to include disabled veteran business enterprises effective October 1, 2015.
12. **Motion No. 135-15** – Filed the annual General Manager's Report and Recommendation to Transfer Unpaid Delinquent Charges to the 2015-2016 Property Tax Rolls.

13. Resolution No. 34044-15 – Appointing Laura A. Brunson As Manager Of Human Resources.

- Director Mellon pulled Item 13 to congratulate Ms. Brunson on her appointment and to welcome her to the District. Ms. Brunson thanked the Board for the opportunity and said she looks forward to working with the District.
- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson and Mellon); NOES (None); ABSTAIN (None); ABSENT (Young).

DETERMINATION AND DISCUSSION

14. General Manager's Report.

General Manager Coate noted that there would be no Legislative update because Manager of Legislative Affairs Marlaigne K. Dumaine was attending meetings in Sacramento on behalf of the District. He also noted that the Summary of 2015 Board Committee Agendas for January through June 2015 and Forecast Agenda Topics for July through December 2015 along with the June 2015 Monthly Report were provided in the Board's packets.

Special Assistant to the General Manager Cheryl A. Farr provided an update on the 2015 Critical Drought Action Plan which was implemented to help the District support customer conservation and customer compliance with drought-related regulations. She noted that based on water production, June demand was down 31 percent compared to the same time period in 2013, surpassing the 20 percent goal set by the Board and the 16 percent target EBMUD is required to achieve based on state requirements. She highlighted the District's outreach goals and recent alerts sent to customers about drought restrictions. In June, customers who were near or who exceeded the excessive use threshold during the April-May billing cycle received courtesy letters informing them of the District's excessive use ordinance and letting them know that the penalty would be applicable to water use starting July 1 and would show up on September bills. In July, supersaver customers (those customers who use 8 or less units of water bimonthly) began receiving a bill insert recognizing them for their efforts to conserve water. Additional outreach efforts include plans to post new conservation videos on our website and to activate the District's Twitter account to share conservation messages.

Manager of Water Conservation Richard W. Harris, provided an update on the District's conservation outreach for FY2015. He reported on the rebate programs, the Home Water Report participation, and water waste report outreach. He pointed out that beginning July 1, water agencies are required to report monthly water waste information to the State Water Resources Control Board in four categories. He noted that the District reported the following information for the month of June: water waste complaints (990); contact follow up (627); warning actions (85); and penalties (fines issued) (0). Also, the District's Water Theft Penalty ordinance is in effect and to date, nine accounts have received warning letters. Director Coleman asked where the accounts receiving warning letters are located and if the language in the letters specified that a \$1,000 fine was being assessed. Staff confirmed the location of the accounts and the language in the letters sent.

Next, Mr. Harris highlighted the District's Trucked Recycled Water Program, expansion projects on the recycled water distribution system and staff's work to secure additional supplemental supplies. President Mellon advised that the San Leandro Chamber of Commerce staff requested hyperlinks to drought related videos posted on the EBMUD website. Staff agreed to make contact with San Leandro and other area chambers to provide this information. Director Coleman brought up the practice of other agencies' water trucks using water from EBMUD fire hydrants to flush sewer systems and asked if there were alternative processes available. General Manager Coate advised he would be meeting with the staff of one of the agencies to discuss this issue and other items of mutual interest.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were the meeting Minutes of the June 23, 2015 Finance/Administration Committee.

16. Director Comments.

Director Coleman reported attending/participating in the following events: Meeting with constituent Thomas Raeth regarding EBMUD landscape issues on June 29 in Lafayette; ACWA Executive Committee teleconference meeting on June 29 in Oakland; ACWA Committee meeting regarding water transfers on July 1 in Sacramento; Pod Cast teleconference for Eden Housing regarding drought on July 2; ACWA Executive Committee teleconference meeting on July 6; meeting with constituent Greg Jones on July 7 in Oakland; ACWA Executive Committee teleconference meeting on July 13 in Oakland; and telephone interview on water theft with ABC TV News Los Angeles on July 13. He reported on plans to attend/participate in the following upcoming events: ACWA Water Transfer Group meeting on July 17 in Sacramento; East Bay Leadership Council meeting on July 17 in Walnut Creek; EBMUD Landscape Advisory Committee meeting on July 27 in Oakland; and ACWA Executive Committee teleconference meeting on July 27 in Oakland.

- Director Katz had no report.
- Director Linney had no report.
- Director McIntosh had no report.
- Director Patterson had no report.
- Director Young had no report.

- President Mellon reported attending/participating in the following events: Retirement event for EBMUD employee Steve Diers at Pardee on June 25; drought update meeting with the Mayor of Hercules on June 29; and a meeting with Assemblymember Baker at the Pleasant Hill Chamber of Commerce on June 29.

ADJOURNMENT

President Mellon adjourned the meeting at 1:54 p.m.

SUBMITTED BY:

Rischa S. Cole, Acting Secretary of the District

APPROVED: July 28, 2015

Frank Mellon, President of the Board

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Friends of Five Creeks

*Volunteers preserving and restoring watersheds of
North Berkeley, Albany, Kensington, south El Cerrito and Richmond since 1996
1236 Oxford St., Berkeley, CA 94709
510 848 9358 f5creeks@gmail.com www.fivecreeks.org*

July 15, 2015

Members of the Board, East Bay Municipal Utility District
General Manager Alexander Coate
Board Secretary
By email

Re: EBMUD Board July 28 meeting agenda, proposed pilot rebates for artificial turf

Dear Members of the Board and General Manager Coate:

Friends of Five Creeks, a 19-year-old, all-volunteer organization working to protect East Bay watersheds and nature, urges that you not add rebates for artificial turf to the existing program of rebates for lawn replacement.

Early in F5C's history, we campaigned to have EBMUD end incentives to pave yards in order to save water. I believe it is now agreed that the loss of permeability and habitat from such projects made a blanket subsidy unwise. We see the current proposal as a step backward, toward considering only one goal at the expense of other environmental consequences.

Artificial turf does save water that would go toward maintaining a lawn. But it also has the following drawbacks:

- Increased urban heat-island effect
- Loss of healthy soil and habitat for pollinators, birds, and other living things
- Significantly increased solid waste (and greenhouse gas emissions due to hauling), as pointed out by StopWaste
- Increased discharge of rubber or other particles to storm drains, creeks, and Bay, as the cushioning material gradually washes out and must be periodically replaced. These small particles may affect aquatic and marine life.

Finally, it is unlikely that this program would increase total water savings – the current rebate program appears to be drawing enough applications to use all available funds. There no doubt are instances where use of artificial turf is justified. But EBMUD should not offer a broad, blanket subsidy for use of these products.

Thank you for your consideration.

Sincerely,

Susan Schwartz, President
Friends of Five Creeks

Friends of Five Creeks is a partner project of 501(c)3 Berkeley Partners for Parks



AGENDA NO.
MEETING DATE

3.
July 28, 2015

TITLE ONE MILLION GALLONS PER DAY PORTABLE PUMPS

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Award a contract to the lowest responsive/responsible bidder American Industrial Equipment, LLC, in an amount not to exceed \$536,620 to supply four (4) 1-million gallons per day (MGD) trailer-mounted, diesel-powered, centrifugal pumps within an acoustic enclosure, under Request for Quotation (RFQ) No. 1503.

SUMMARY

Work includes design and manufacturing of four 1-MGD portable pumps. The portable pumps are needed in order to provide supplemental pumping for planned facility outages and emergency distribution operations.

DISCUSSION



These diesel-powered portable pumps are needed to replace some of the District's aging portable pump equipment, a number of which cannot comply with current air emissions requirements and must be removed from service. The reliability of portable pump equipment is expected to be critical in the years ahead due to the District's aging infrastructure for both distribution facilities and backbone piping.

VENDOR SELECTION

Requests for quotations were sent to three resource organizations, 77 potential proposers, and posted to the District's website. Two bids were received for this contract.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

Funds Available: FY16-17; CIP #1000576; Page 48		Budget Code: WSC\551\7999\2005536:25
DEPARTMENT SUBMITTING Engineering & Construction	DEPARTMENT MANAGER or DIRECTOR  Xavier J. Irias	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

FISCAL IMPACT

Funds for this purchase are available in the FY16-17 Capital Improvement Program under the Transmission System Seismic Improvement Program Project.

ALTERNATIVES

Do not purchase the pumps. This alternative is not recommended since, at present, the District does not have an adequate number of portable pumps of this capacity that can be deployed to respond to emergency preparedness and operational needs.


Reject all bids and re-bid. This alternative is not recommended as the two responsive bidders are believed to be qualified to supply the requested equipment. Re-bidding this equipment procurement is not expected to interest additional qualified vendors, and further delays in procurement are inadvisable due to long lead times required for the design, fabrication, factory testing, and field testing needed prior to placing the equipment into active service.

Attachments Contract Equity Program Summary (P-035)
 Affirmative Action Summary (P-061)



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE QUOTATION NO.: 1503 1-MGD Portable Pumps				DATE: June 24, 2015							
CONTRACTOR: American Industrial Equipment, LLC Livermore, CA				PERCENTAGE OF CONTRACT DOLLARS							
Local/Small Business				Availability Group	Contracting Objectives	Participation					
BID/PROPOSER'S PRICE: \$536,620	FIRM'S OWNERSHIP		White Men	25%	100.0%						
	Ethnicity	Gender	White Women	2%	0.0%						
	White	Men	Ethnic Minorities	25%	0.0%						
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: American Industrial Equipment, LLC	\$536,620	White	X		100.0%	—	—	—	—	—	—
SUBS: None					—	—	—	—	—	—	—
					—	—	—	—	—	—	—
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TOTAL	\$536,620				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)											
	White Men	White Women	Ethnic Minorities	Total Employees							
No. of Employees:	3	1	1	5							
Percent of Total Employees:	60.0%	20.0%	20.0%								
MSA Labor Market %:	32.3%	27.8%	39.9%								
MSA Labor Market Location:	9 Bay Area Counties										
COMMENTS											
Contract Equity Participation - 100% White Men participation.											
Workforce Profile & Statement of Nondiscrimination Submitted		Good Faith Outreach Efforts Requirement Satisfied		Award Approval Recommended							
NA		NA									



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: 1-MGD Portable Pumps		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
Quotation #: 1503	DATE: 6/24/2015	9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM - L/SBE	Company Wide	-	-	-	-	0	0.0%	39.9%
American Industrial Equipment, LLC Michael Branco 4749-G Bennett Dr Livermore, CA 94551 925-454-3450		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		7/1/2015		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		5 Bay Area: 5		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
P	WM - SBE	Company Wide	-	3	1	-	4	14.3%	48.4%
Pac Machine Co., Inc. Miro Kesich 5326 Gateway Plaza Dr Benecia, CA 94510 707-746-4940		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	2	1	-	3	23.1%	
		Clerical/Skilled	-	1	-	-	1	25.0%	
		Semi/Unskilled	-	-	-	-	0	0.0%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		28 Bay Area: 4		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.
MEETING DATE

4.1
July 28, 2015

TITLE 10.75" OUTSIDE DIAMETER HIGH-DENSITY POLYETHYLENE (HDPE) PIPE

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

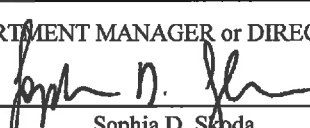

Award a contract to the lowest responsive/responsible bidder, General Supply Co. in an amount, after the addition of taxes, not to exceed \$121,500 for supplying 10.75" Outside Diameter (OD) HDPE pipe beginning on or after July 29, 2015 under Request for Quotation (RFQ) No.1523.

SUMMARY

The pipe being purchased under this contract will be used to complete installation of the Phase 1 pipeline work of the Camanche Transmission Pipeline. This project consists of installing approximately 6,170 feet of buried pipeline and 2,100 feet of submerged pipeline. A construction contract for the installation work is the subject of a separate companion contract being presented to the Board for consideration. Because of the environmental permit requirements to avoid or minimize the impact to potential protected habitats in the upland area, construction is limited to the dry season. Purchase of pipe for Phase 1 at this time will allow for an earlier start of the project and provide enough time to complete the upland work prior to the start of rainy season.

DISCUSSION

Camanche Transmission Pipeline project is divided into two phases. Phase 1 consists of installation of 8,270 feet of 10.75-inch OD HDPE pipe connecting the new Camanche South Shore (CASS) water treatment plant (WTP) to the North Shore area. Phase 2 consists of installation of 5,800 feet of 12-inch HDPE pipe connecting the new WTP to the Mokelumne Aqueducts. The project will allow the CASS WTP to supply water to the Camanche North Shore (CANS) Recreation Area and to provide raw water from the Mokelumne Aqueducts to the new WTP and address historic issues associated with using local surface and groundwater. A construction contract for the project is presented separately to the Board for consideration at the July 28, 2015 Board Meeting. Approximately 70 percent of the total cost of the Camanche Transmission Pipeline project will be funded by a Proposition 84 grant secured through the Upper Mokelumne River Watershed Authority (UMRWA).

Funds Available: FY 16		Budget Code: WSC\570\7999\5561\2010089
DEPARTMENT SUBMITTING Finance	DEPARTMENT MANAGER or DIRECTOR  Sophia D. Skoda	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

10.75" Outside Diameter High-Density Polyethylene (HDPE) Pipe
Board of Directors Meeting
July 28, 2015
Page 2

VENDOR SELECTION

Requests for quotations were sent to 3 resource organizations and to 150 potential proposers and posted on the District's website. A total of eight bids were received. After application of the SBE preference, the lowest responsive/responsible bidder was General Supply Co.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

This item is included in the FY16-17 Capital Improvement Program for the Camanche South Shore Water Treatment Plant Replacement Project under the Supply Reservoirs Program. Approximately 70 percent of the total cost of the Camanche Transmission Pipeline project will be funded by a Proposition 84 grant secured through UMRWA. The purchase of HDPE pipe requested herein amounts to approximately 10 percent of the total Camanche Transmission Pipeline project cost.

ALTERNATIVES

Reject bid and rebid the request for quotation. This alternative is not recommended because the District engaged in a fair and competitive bid process and obtained a bid that contains reasonable pricing. Rebidding would also increase administrative costs.

Do not acquire HDPE pipe. This alternative is not recommended because the specified pipe is required in order to successfully complete this project during a time of low water elevation at Lake Camanche.

ARC:SDS:AA

Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title:		Ethnic Minority Percentages From U.S. Census Data							
10.75" Outside Diameter High-Density Polyethylene (HDPE) Pipe			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
Quotation #: 1523	DATE: 7/9/2015	Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	EMM:B - L/SBE	Company Wide	3	-	-	-	3	100.0%	47.8%
General Supply Company Charles Simpson 971 87th Ave Oakland, CA 94621 510-632-5229		Manager/Prof	2	-	-	-	2	100.0%	
		Technical/Sales	1	-	-	-	1	100.0%	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		4/9/2015		
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		3 Bay Area: 3		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
P	WW - SBE	Company Wide	-	19	1	-	20	54.1%	27.2%
Maskell Pipe & Supply, Inc. Salma Bushala 8604 Cottonwood Ave Fontana, CA 92335 909-574-8662		Manager/Prof	-	3	1	-	4	50.0%	
		Technical/Sales	-	10	-	-	10	52.6%	
		Clerical/Skilled	-	3	-	-	3	50.0%	
		Semi/Unskilled	-	3	-	-	3	75.0%	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		37 Bay Area: 0		
P	WM	Company Wide	-	9	-	1	10	25.0%	27.2%
Pacific Mechanical Supply Brent Adams 13705 Milroy Place Santa Fe Springs, CA 90670 562-921-0575		Manager/Prof	-	-	-	1	1	50.0%	
		Technical/Sales	-	1	-	-	1	100.0%	
		Clerical/Skilled	-	1	-	-	-	NA	
		Semi/Unskilled	-	7	-	-	-	NA	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		40 Bay Area: 0		
P	WM - LBE	Company Wide	2	63	4	-	69	43.1%	48.4%
HD Supply Waterworks, LTD. Ed Allred 2407 Industrial Parkway Hayward, CA 94545 510-404-0134		Manager/Prof	-	9	2	-	11	22.4%	
		Technical/Sales	2	15	2	-	19	33.3%	
		Clerical/Skilled	-	24	-	-	24	80.0%	
		Semi/Unskilled	1	15	-	-	16	66.7%	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		160 Bay Area: 0		
P	WM	Company Wide	1	-	1	-	2	28.6%	27.2%
HD Supply Power Solutions, LTD. Michelle Roman 6525 Best Friends Rd Norcross, GA 30071 407-822-2809		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	1	-	1	-	2	66.7%	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		7 Bay Area: 0		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title:		Ethnic Minority Percentages From U.S. Census Data							
10.75" Outside Diameter High-Density Polyethylene (HDPE) Pipe				B	H	A/PI	AI/AN	TOTAL	
		National		10.5	10.7	3.7	0.7	27.3	
		9 Bay Area Counties		5.5	16.2	14.2	0.4	39.9	
Materials & Supplies Award		DATE:	Alameda/CC Counties						
		7/9/2015	10.7	15.6	15.4	0.5	46.2		
R=Recommd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
P	WM	Company Wide	Information not Provided						
Pace Supply Corp. Po Box 6407 Rohnert Park, CA 94927 707-521-4379		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area	Co. Wide MSA:	# Employees-Co. Wide:	Bay Area:				
P	EMW:H - L/SBE	Company Wide	-	1	-	-	1	100.0%	39.9%
Steel Source Construction Nancy Massa 3233 Ensenada Dr San Ramon, CA 94583 510-285-2700		Manager/Prof	-	1	-	-	1	100.0%	
		Technical/Sales	-	-	-	-	NA		
		Clerical/Skilled	-	-	-	-	NA		
		Semi/Unskilled	-	-	-	-	NA		
				Bay Area	-	-	-	-	NA
		Co. Wide MSA:	9 Bay Area Counties	# Employees-Co. Wide:	1	Bay Area:	0		
P	EMW:H - SBE	Company Wide	1	2	-	-	3	75.0%	44.0%
City Source Rental & Supply Diana Leder 240 O'Farrell St San Francisco, CA 94102 415-97-4925		Manager/Prof	-	1	-	-	1	100.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	1	-	-	-	1	100.0%	
		Semi/Unskilled	-	1	-	-	1	100.0%	
				Bay Area	-	-	-	-	NA
		Co. Wide MSA:	San Francisco	# Employees-Co. Wide:	4	Bay Area:	0		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
				Bay Area					
		Co. Wide MSA:		# Employees-Co. Wide:		Bay Area:			
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
				Bay Area					
		Co. Wide MSA:		# Employees-Co. Wide:		Bay Area:			
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
				Bay Area					
		Co. Wide MSA:		# Employees-Co. Wide:		Bay Area:			

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.
MEETING DATE

4.2
July 28, 2015

TITLE CAMANCHE WATER TRANSMISSION PIPELINE

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Award a contract to the lowest responsive/responsible bidder, California Trenchless, Inc., in the amount of \$1,047,400 for construction of Camanche Water Transmission Pipeline under Specification 2093A.

SUMMARY

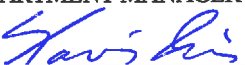

Work includes installing 8,270 feet of 10-inch high density polyethylene (HDPE) pipe, furnishing and installing approximately 5,800 feet of 12-inch HDPE pipe, and performing related required work at Camanche Reservoir site, located in Amador County and Calaveras County.

DISCUSSION

Camanche Water Transmission Pipeline project is divided into two phases. Phase 1 consists of installing 8,270 feet of 10-inch HDPE pipe connecting the new Camanche South Shore (CASS) Water Treatment Plant (WTP) to the Camanche North Shore (CANS) area. The purchase of the 10-inch pipe, more specifically 10.75-inch outside diameter pipe, is the subject of a separate contract that will be presented to the Board for consideration today. Phase 2 consists of installing 5,800 feet of 12-inch HDPE pipe connecting the new WTP to the Mokelumne Aqueducts and addresses historic issues associated with using local surface and ground water. This project will allow the CASS WTP to supply water to both the CASS and CANS Recreation Areas. Approximately 70 percent of the total cost of the Camanche Transmission Pipeline project is funded by a Proposition 84 grant secured through the Upper Mokelumne River Watershed Authority (UMRWA).

BID RESULTS

Bid documents were issued to 31 resource organizations and 40 prospective bidders. Six bids were received, ranging from \$1,047,400 to \$2,142,065. The bid summary is attached. The engineer's estimate for this work is \$1,050,851.

Funds Available: FY16-17; CIP #1000797 Page 116		Budget Code: WSC\570\7999\2010089\2010090
DEPARTMENT SUBMITTING Engineering and Construction	DEPARTMENT MANAGER or DIRECTOR  Xavier J. Irias	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

The lowest responsive/responsible bidder, California Trenchless, Inc., is licensed to perform work in California, and is not on the State Department of Industrial Relations (DIR) debarment list. California Trenchless, Inc. and its listed subcontractors are properly registered with the State DIR. In the past five years, California Trenchless, Inc. has not filed a Government Code Claim against the District, and has not initiated any litigation against the District.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

This item is included in the FY16-17 Capital Improvement Program for the Camanche South Shore Water Treatment Plant Replacement Project under the Supply Reservoirs Program. Approximately 70 percent of the total cost of the Camanche Transmission Pipeline project is funded by a Proposition 84 grant secured through the UMRWA. The purchase of HDPE pipe requested under a separate BD-1 amounts to approximately 10 percent of the total Camanche Transmission Pipeline project cost.

PREVAILING WAGE

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

UNION NOTIFICATION

Local 444 was notified of this contract on April 3, 2014. Local 444 did not raise any specific issues related to this contract.

CEQA/ENVIRONMENTAL COMPLIANCE

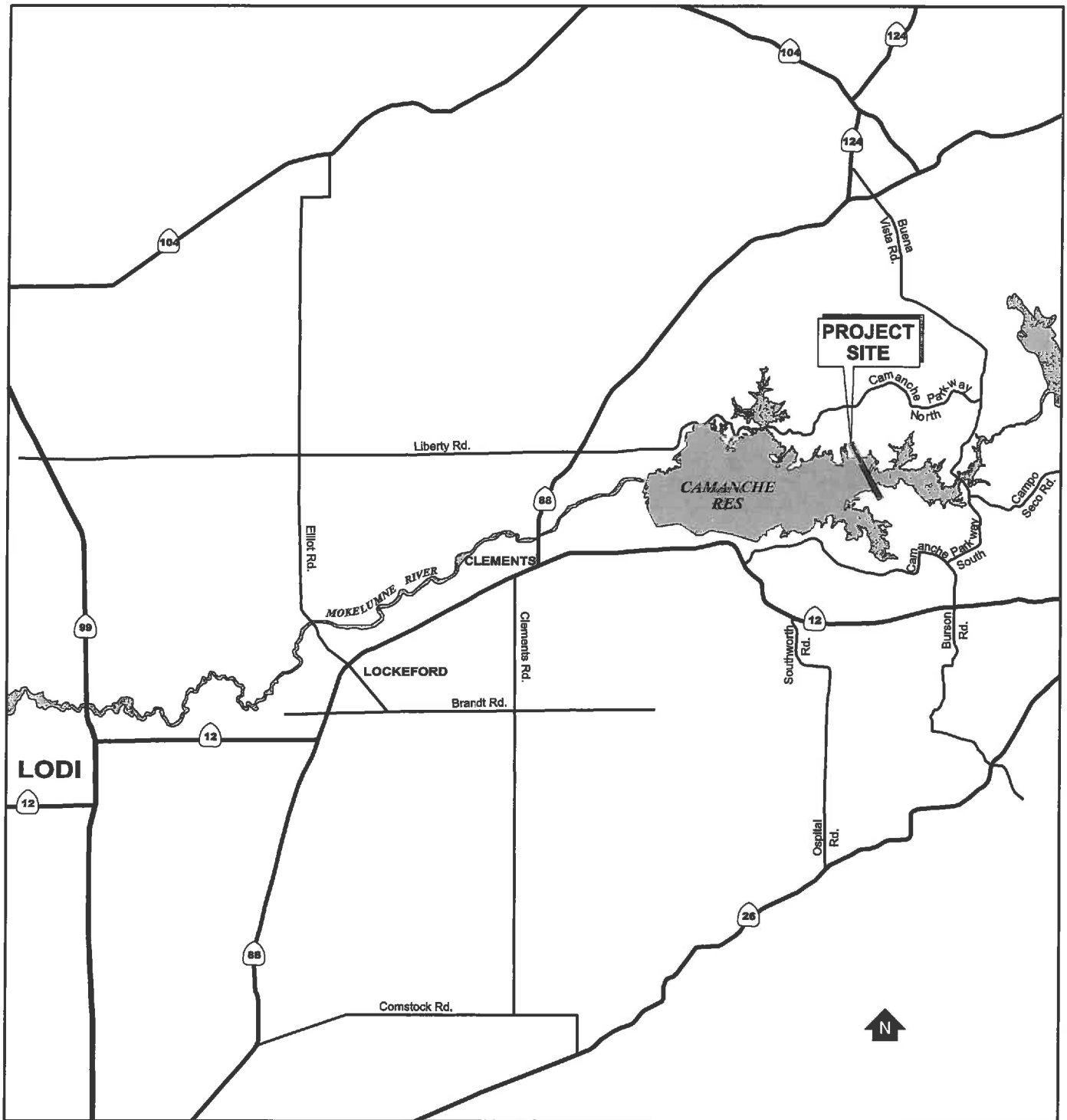
A Mitigated Negative Declaration was certified by the Board of Directors on September 25, 2001. An Addendum to the Mitigated Negative Declaration was issued on April 3, 2014. The Addendum determined that there were no new impacts since 2001 and that the project mitigation measures were still appropriate.

ALTERNATIVES

Do not perform the work. This alternative is not recommended because Camanche Reservoir is currently in extreme low water condition allowing the cross lake pipeline to be buried in the lakebed resulting in a better project and reduced project costs. Additionally, the pipeline is included as part of the State Proposition 84 grant project and not performing the work could result in a loss of grant funds.

Perform the work with District forces. This alternative is not recommended. Due to overwater construction, which requires special skills and equipment, this work is beyond the scope of work typically performed by District forces.

Attachments Location Map
 Bid Summary
 Contract Equity Program Summary (P-035)
 Affirmative Action Summary (P-061)



**PROJECT SITE
LOCATION MAP**

NOT TO SCALE

EAST BAY MUNICIPAL UTILITY DISTRICT

**CAMANCHE WATER
TRANSMISSION PIPELINE**

SPECIFICATION 2093A

EAST BAY MUNICIPAL UTILITY DISTRICT
SPECIFICATION 2093A
CAMANCHE WATER TRANSMISSION PIPELINE
Bids Opened July 1, 2015

	BIDDER	TOTAL AMOUNT BID
1.	California Trenchless, Inc. (SBE) 2283 Dunn Rd. Hayward, CA 94545 (510)782-5335	\$1,047,400 / 995,030*
2.	Sierra Mountain Construction, Inc. dba SMIC 16355 Yosemite Rd. Sonora, CA 95370 (415) 896-2859	\$1,334,350
3.	Mountain Cascade, Inc. 555 Exchange Ct. Livermore, CA 94551 (925) 373-8370	\$1,432,660
4.	Vinciguerra Construction (SBE) 235 Spanish St. Sutter Creek, CA 95685 (209) 223-3610	\$1,442,800 / 1,390,430*
5.	Anvil Builders, Inc. (SBE) 1475 Donner Ave., 2 nd Flr. San Francisco, CA 94124 (415) 285-5000	1,969,650 / 1,917,280*
6.	McGuire and Hester 9009 Railroad Ave. Oakland, CA 94603 (510)632-7676	\$2,142,065

SBE – Small Business Enterprise


*Effective Bid Amount due to SBE discount (5% of the low bid amount, not to exceed \$250,000)

Engineer's Estimate: \$1,050,851



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE SPECIFICATION NO.: 2093A Camanche Water Transmission Pipeline						DATE: July 7, 2015							
CONTRACTOR: California Trenchless, Inc. Hayward, CA					Local/Small Business					PERCENTAGE OF CONTRACT DOLLARS			
BID/PROPOSER'S PRICE: \$1,047,400		FIRM'S OWNERSHIP Ethnicity: White Gender: Men		Availability Group White Men: 100.0% White Women: 0.0% Ethnic Minorities: 0.0%		Contracting Objectives 25% 6% 25%		Participation 100.0% 0.0% 0.0%					
CONTRACT EQUITY PARTICIPATION													
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION								
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign		
PRIME: California Trenchless, Inc.	\$949,533	White	X		90.7%	---	---	---	---	---	---		
SUBS: Underwater Resources, Inc.	\$97,867	White	X		9.3%	---	---	---	---	---	---		
					---	---	---	---	---	---	---		
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TOTAL	\$1,047,400				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%		
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)													
	White Men	White Women	Ethnic Minorities	Total Employees									
No. of Employees:	4	2	16	22									
Percent of Total Employees:	18.2%	9.1%	72.7%										
MSA Labor Market %:	24.5%	21.6%	53.9%										
MSA Labor Market Location:	Alameda County												
COMMENTS													
Contract Equity Participation - 100% White Men participation.													
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended					
NA				YES				 for B.S.					



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Camanche Water Transmission Pipeline		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
Spec. No.: 2093A		DATE: 7/7/2015	9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9
			Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees						
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT
								MSA %
RP	WM - L/SBE	Company Wide	-	16	-	-	16	72.7%
California Trenchless, Inc. Michael Jardin 2283 Dunn Rd. Hayward, CA 94545 510-782-5335		Manager/Prof	-	-	-	-	0	0.0%
		Technical/Sales	-	-	-	-	-	NA
		Clerical/Skilled	-	4	-	-	4	44.4%
		Semi/Unskilled	-	12	-	-	12	100.0%
		Bay Area	-	15	-	-	15	71.4%
		AA Plan on File:	NA		Date of last contract with District:		4/28/2015	
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		22 Bay Area: 21	
S	WM - L/SBE	Company Wide	-	2	-	-	2	22.2%
Underwater Resources, Inc Tomas Belcher 866 Estabrook St San Leandro, CA 94577 510-957-5097		Manager/Prof	-	-	-	-	0	0.0%
		Technical/Sales	-	-	-	-	-	NA
		Clerical/Skilled	-	1	-	-	1	16.7%
		Semi/Unskilled	-	1	-	-	1	100.0%
		Bay Area	-	2	-	-	2	22.2%
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		9 Bay Area: 9	
		Company Wide						
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:	
P	EMM:H - SBE	Company Wide	1	19	1	-	21	32.3%
Sierra Mountain Construction, Inc. DBA SMIC Doug Benton 16355 Yosemite Rd Sonora, CA 95370 415-896-2859		Manager/Prof	-	1	-	-	1	50.0%
		Technical/Sales	-	-	1	-	1	25.0%
		Clerical/Skilled	-	11	-	-	11	30.6%
		Semi/Unskilled	1	7	-	-	8	34.8%
		Bay Area	-	-	-	-	-	NA
		Co. Wide MSA:	California		# Employees-Co. Wide:		65 Bay Area: 0	
P	WM - LBE	Company Wide	47	103	-	1	151	65.4%
Mountain Cascade, Inc. Michael Fuller 555 Exchange Ct Livermore, CA 94550 825-373-8370		Manager/Prof	-	2	-	-	2	7.7%
		Technical/Sales	-	-	-	-	0	0.0%
		Clerical/Skilled	-	-	-	-	0	0.0%
		Semi/Unskilled	47	101	-	1	149	77.2%
		Bay Area	-	-	-	-	-	NA
		Co. Wide MSA:	California		# Employees-Co. Wide:		231 Bay Area: 0	
P	WM - L/SBE	Company Wide	-	3	-	1	4	28.6%
Vinciguerra Construction Wayne Vinciguerra 235 Spanish St Sutter Creek, CA 95685 209-223-3610		Manager/Prof	-	-	-	-	0	0.0%
		Technical/Sales	-	-	-	-	-	NA
		Clerical/Skilled	-	-	-	-	0	0.0%
		Semi/Unskilled	-	3	-	1	4	50.0%
		Bay Area	-	-	-	-	-	NA
		Co. Wide MSA:	California		# Employees-Co. Wide:		14 Bay Area: 0	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.
MEETING DATE

5.

July 28, 2015

TITLE **WASTEWATER COLLECTION SYSTEM INFLOW INVESTIGATION SERVICES**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize an agreement beginning on or after July 28, 2015 with eight firms – ADS Corporation; Andes Construction, Inc.; Electro Scan Inc.; Infrastructure Engineering Corporation; Pacific General Engineering; Hoffman Southwest Corporation, dba Professional Pipe Services (Pro-Pipe); Santact Inc., dba Roto-Rooter; and V&A Consulting Engineers, Inc. – to develop a roster for performing inflow and infiltration (I/I) investigation of the regional wastewater collection system, as required by the wet weather Consent Decree (CD), for 2 years with three options to renew for an additional 1-year period for a total cost not to exceed \$7,100,000.



SUMMARY

Under the terms of a United States Environmental Protection Agency (EPA) CD, the District and its seven satellite agencies are required to implement measures to reduce I/I and eliminate discharges from the District's three wet weather facilities (WWFs) under design storm conditions by 2036. In order to meet this goal, the District is required to perform inflow investigations. The results of the investigations will be used to locate, characterize, and quantify sources of I/I. This contract will contribute to meeting the CD-required District obligation to spend an average of no less than \$2 million per year for performing inflow investigations.

DISCUSSION

On September 22, 2014, the District and seven satellite agencies entered into the CD with EPA, the state and regional water boards, San Francisco Baykeeper, and Our Children's Earth Foundation. As required by the CD, the District has created a Regional Technical Support Program (RTSP) to identify, characterize, and quantify I/I sources. The inflow investigation services will serve as an integral part of the RTSP.

Inflow investigations will be an ongoing effort through the life of the CD to help identify specific areas prone to high I/I. Any non-wastewater flows identified within the regional wastewater collection system is undesirable and eliminating these flows will be essential to eliminating discharges at the WWFs. The

Funds Available: FY16		Budget Code: 944/2228/1013988/5231
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Bennett K. Horenstein	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

District will investigate the satellites' wastewater collection systems and report any identified I/I source to the satellites and EPA. The investigation methods will include closed-circuit television inspection of the sewers and laterals; flow, level, and micro monitoring; precipitation monitoring; smoke testing; dye testing; manhole inspections; remote camera monitoring; focused electrode leak locator inspection; sonar or laser scanning; and any other method that may benefit the program.

SERVICE PROVIDER SELECTION

A Request for Proposals (RFP) was publicly posted to the District's website and was also sent directly to 1,772 firms from the District's vendor list who indicated capabilities in performing these services. Nine proposals were received. After an in depth review of firm proposals and qualifications, eight contractors were selected to be part of the roster to perform the necessary investigation services.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

Funds are available in the FY16 and FY17 operating budget for RTSP Inflow Investigations.

UNION NOTIFICATION

Locals 2019, 21, and 444 were notified of this contract on March 24, 2015 and April 14, 2015 and did not raise any specific issues related to this contract.

ALTERNATIVES

Perform the work with District staff. This alternative is not recommended because District staff does not have the technical expertise, breadth of experience, or proper equipment necessary to perform this work within the timeframe required by the CD and avoid significant financial penalties.

Delay or do not proceed with the project. This alternative is not recommended because the work to be performed under this contract is required by the CD. Delay of the work would result in significant financial penalties.

Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE Professional Services Agreement Wastewater Collection System Inflow Investigation Services - Two Year Contract with 3 One-Year Options to Renew						DATE: June 30, 2015							
CONTRACTOR: Various				PERCENTAGE OF CONTRACT DOLLARS									
BID/PROPOSER'S PRICE: \$7,100,000 *		FIRM'S OWNERSHIP See P-61		White Men 50.0%		White Women 0.0%		Ethnic Minorities 37.5%					
CONTRACT EQUITY PARTICIPATION													
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION								
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign		
PRIME:													
ADS Corporation	\$887,500	Publicly Held			---	---	---	---	12.5%	---	---		
Andes Construction, Inc.	\$887,500	Hispanic	X		---	---	12.5%	---	---	---	---		
Electro Scan, Inc.	\$887,500	White	X		12.5%	---	---	---	---	---	---		
Infrastructure Engineering Corporation	\$887,500	White	X		12.5%	---	---	---	---	---	---		
Pacific General Engineering	\$887,500	Hispanic	X		---	---	12.5%	---	---	---	---		
Hoffman Southwest Corp. DBA Professional Pipe Services	\$887,500	White	X		12.5%	---	---	---	---	---	---		
Sanact, Inc. DBA Roto-Rooter	\$887,500	White	X		12.5%	---	---	---	---	---	---		
V&A Consulting Engineers, Inc.	\$887,500	Hispanic	X		---	---	12.5%	---	---	---	---		
TOTAL					\$7,100,000		50.0%	0.0%	37.5%	0.0%	12.5%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)													
			White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:			See P-61										
Percent of Total Employees:													
MSA Labor Market %:													
MSA Labor Market Location:													
COMMENTS													
Contract Equity Participation - 50% White Men participation and 37.5% Ethnic Minority participation.													
*Total not to exceed \$7,100,000.													
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended					
NA				YES									



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Wastewater Collection System Inflow Investigation Services - Two Year Contract with 3 One-Year Options to Renew		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2	
Professional Services Agreement		DATE: 6/30/2015						
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees						
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT
MSA %								
RP	Publicly Held	Company Wide	29	18	4	1	52	24.3%
								27.2%
ADS Corporation Joseph Goustin 1300 Meridian St, Suite 3000 Huntsville, AL 35801 256-430-3366		Manager/Prof	6	2	-	-	8	10.4%
		Technical/Sales	1	1	-	-	2	8.7%
		Clerical/Skilled	21	9	3	1	34	33.3%
		Semi/Unskilled	1	6	1	-	8	66.7%
		Bay Area	-	1	-	-	1	50.0%
		AA Plan on File:	NA		Date of last contract with District:		NA	
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		214 Bay Area: 2	
S	EMM:H - L/SBE	Company Wide	Information not Provided					
Traffic Management, Inc. Mark Coleman 10 Hegenberger Ct Oakland, CA 94621 562-755-1441		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:			
S	WW - L/SBE	Company Wide	Information not Provided					
Cal-Safety, Inc. Kevin Karrick PO Box 1901 Fremont, CA 94539 510-656-5544		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:			
S	EMM:B	Company Wide	Information not Provided					
Mosley Technical Services, Inc. Renee Pinto Smith 7500 S. Memorial Pkwy, Suite 215-R Huntsville, AL 35802 256-797-2126		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:			
RP	EMM:H - LBE	Company Wide	-	27	-	-	27	100.0%
								47.8%
Andes Construction, Inc. Danilo Mayorga, Sr 5305 E. 12th St Oakland, CA 94601 510-536-7832		Manager/Prof	-	3	-	-	3	100.0%
		Technical/Sales	-	-	-	-	-	NA
		Clerical/Skilled	-	24	-	-	24	100.0%
		Semi/Unskilled	-	-	-	-	-	NA
		Bay Area	-	27	-	-	27	100.0%
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		27 Bay Area: 27	
RP	WM	Company Wide	-	5	1	1	7	36.8%
								31.6%
Electro Scan, Inc. Janine Mullinix 1745 Markston Rd. Sacramento, CA 95825 916-779-0660		Manager/Prof	-	3	1	1	5	55.6%
		Technical/Sales	-	1	-	-	1	33.3%
		Clerical/Skilled	-	1	-	-	1	14.3%
		Semi/Unskilled	-	-	-	-	-	NA
		Bay Area	-	-	-	-	-	NA
		Co. Wide MSA:	Sacramento		# Employees-Co. Wide:		19 Bay Area: 0	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s) P-025 Form regarding their workforce.

Title: Wastewater Collection System Inflow Investigation Services - Two Year Contract with 3 One-Year Options to Renew		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
Professional Services Agreement		DATE: 6/30/2015	9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9
			Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees						
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT
MSA %								
RP	WM - SBE	Company Wide	1	2	4	0	7	15.6%
	Infrastructure Engineering Corporation	Manager/Prof	-	2	2	-	4	16.7%
	Preston Lewis	Technical/Sales	1	-	2	1	4	23.5%
	14271 Danielson St	Clerical/Skilled	-	-	-	1	1	25.0%
	Poway, CA 92064	Semi/Unskilled	-	-	-	-	-	NA
		Bay Area	-	-	1	-	1	25.0%
	858-437-7223	Co. Wide MSA:	California	# Employees-Co. Wide:			45	Bay Area:
							4	
RP	EMM:H - L/SBE	Company Wide	1	4	-	-	5	55.6%
	Pacific General Engineering	Manager/Prof	-	1	-	-	1	25.0%
	James Akridge	Technical/Sales	-	-	-	-	-	NA
	2934 Pacheco Blvd	Clerical/Skilled	1	-	-	-	1	50.0%
	Martinez, CA 94553	Semi/Unskilled	-	3	-	-	3	100.0%
		Bay Area	1	4	-	-	5	55.6%
	925-387-5555	Co. Wide MSA:	Contra Costa	# Employees-Co. Wide:			9	Bay Area:
							9	
RP	WM	Company Wide	29	273	16	6	324	56.8%
	Hoffman Southwest Corp. DBA Professional Pipe Services	Manager/Prof	-	9	3	1	13	33.3%
	Dennis Hoffman	Technical/Sales	1	6	1	-	8	40.0%
	23311 Madero St	Clerical/Skilled	24	204	12	4	244	55.7%
	Mission Viejo, CA 92691	Semi/Unskilled	4	54	-	1	59	80.8%
		Bay Area	-	-	5	-	5	71.4%
	949-380-4161	Co. Wide MSA:	Total USA	# Employees-Co. Wide:			570	Bay Area:
							7	
RP	WM - LBE	Company Wide	5	15	4	2	26	45.6%
	Sanact, Inc. DBA Roto-Rooter	Manager/Prof	1	3	1	-	5	55.6%
	Rodney Wray	Technical/Sales	4	10	2	2	18	50.0%
	320 Stealth Ct	Clerical/Skilled	-	2	1	-	3	25.0%
	Livermore, CA 94551	Semi/Unskilled	-	-	-	-	-	NA
		Bay Area	5	15	4	2	26	45.6%
	925-443-5454	Co. Wide MSA:	California	# Employees-Co. Wide:			57	Bay Area:
							57	
RP	EMM:H - L/SBE	Company Wide	1	3	5	-	9	26.5%
	V&A Consulting Engineers, Inc.	Manager/Prof	-	2	1	-	3	18.8%
	Jcse Villalobos	Technical/Sales	-	1	3	-	4	36.4%
	155 Grand Ave, Suite 700	Clerical/Skilled	1	-	1	-	2	28.6%
	Oakland, CA 94612	Semi/Unskilled	-	-	-	-	-	NA
		Bay Area	1	3	5	-	9	36.0%
	510-903-6600	Co. Wide MSA:	Total USA	# Employees-Co. Wide:			34	Bay Area:
							25	
S	EMM:A/PI - LBE	Company Wide	21	15	32	-	68	27.3%
	E2 Consulting Engineers, Inc.	Manager/Prof	7	8	25	-	40	27.0%
	Jennifer Sadler	Technical/Sales	5	3	4	-	12	44.4%
	1900 Powell St, #250	Clerical/Skilled	9	4	3	-	16	22.5%
	Emeryville, CA 94608	Semi/Unskilled	-	-	-	-	0	0.0%
		Bay Area	6	3	13	-	22	34.4%
	888-297-1164	Co. Wide MSA:	Total USA	# Employees-Co. Wide:			249	Bay Area:
							64	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Wastewater Collection System Inflow Investigation Services - Two Year Contract with 3 One-Year Options to Renew		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2	
Professional Services Agreement		DATE: 6/30/2015						
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees						
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
S	WM							
Company Wide								
Pro-Pipe Dean Monk 23311 Madero St Mission Viejo, CA 92691 949-380-4161		Manager/Prof Technical/Sales Clerical/Skilled Semi/Unskilled	Information not Provided					
Bay Area								
Co. Wide MSA:		# Employees-Co. Wide:				Bay Area:		
S	Publicly Held							
Company Wide								
Stantec Consulting, Inc. Gary Scott 1311 West Hunter St Logan, OH 43138 740-380-2828		Manager/Prof Technical/Sales Clerical/Skilled Semi/Unskilled	Information not Provided					
Bay Area								
Co. Wide MSA:		# Employees-Co. Wide:				Bay Area:		
Company Wide								
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
Bay Area								
Co. Wide MSA:		# Employees-Co. Wide:				Bay Area:		
Company Wide								
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
Bay Area								
Co. Wide MSA:		# Employees-Co. Wide:				Bay Area:		
Company Wide								
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
Bay Area								
Co. Wide MSA:		# Employees-Co. Wide:				Bay Area:		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO. 6.
MEETING DATE July 28, 2015

TITLE PARDEE MARINA FLOTATION REPLACEMENT PROJECT

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Authorize a contract with Morais Construction/West Coast Docks in the total amount not to exceed \$134,352 to remove existing exposed Styrofoam flotation under the Pardee Reservoir marina and replace with encapsulated tub flotation.

SUMMARY

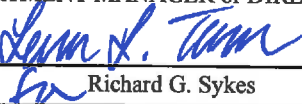

Work includes replacing the large 40' x 100' portion of Styrofoam flotation that supports the marina store and warehouse at the Pardee Reservoir marina. Since this portion is too large to remove from the water, divers are needed to complete this work.

DISCUSSION

The existing Pardee marina was constructed as a District capital project in 1991. At that time, the use of exposed Styrofoam flotation was the industry norm. Exposed Styrofoam tends to degrade and fall apart when exposed to elements such as solar radiation, abrasion and the actions of certain wildlife species. In a routine environmental inspection in 2011, FERC noted that at several locations at Mokelumne area facilities, the exposed Styrofoam was degrading to the point that it was causing potential environmental harm. FERC provided direction that all exposed Styrofoam at Pardee and Camanche be replaced. Staff developed a 5-year plan to replace all exposed Styrofoam at Mokelumne facilities. The floating marinas at Camanche Reservoir were nearly 50 years old, in poor condition and due for total replacement. They have since been entirely replaced through District capital replacement projects and concessionaire funds. The Pardee marina was found to still be in good condition, so work commenced to replace flotation and decking as needed to meet the FERC requirement. District staff has replaced all Styrofoam flotation on marina walkways, fingers and slips that could be removed from the water in order to complete the work. The only remaining portion of the floating structure is the large 40' x 100' portion of Styrofoam flotation that supports the marina store and warehouse.

VENDOR SELECTION

In June 2015, the District sent approximately thirty Requests for Proposals. The bid from Morais Construction/West Coast Docks was the lowest of three bids received.

Funds Available: FY16		Budget Code: WSC/WNR/455/2005805
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT MANAGER or DIRECTOR  Richard G. Sykes	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

Funds for this work are available in the FY16 Water and Natural Resources capital budget.

PREVAILING WAGE

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

ALTERNATIVES

Complete the work using District forces. This alternative is not recommended because District staff is not trained to perform the required underwater work tasks.

Do not complete the project work required by FERC. This alternative is not recommended as FERC has authority over the District's recreational facilities in the Mokelumne area, and the District to date, has been cooperative with FERC directives.

Attachments

P-035 Contract Equity Program Summary
P-061 Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE General Services Agreement Pardee Marina Floatation Replacement Project				DATE: July 20, 2015								
CONTRACTOR: Morais Construction/West Coast Docks Walnut Grove, CA				PERCENTAGE OF CONTRACT DOLLARS								
		Availability Group		Contracting Objectives		Participation						
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men		25%		100.0%					
	Ethnicity	Gender	White Women		6%		0.0%					
	White	Men	Ethnic Minorities		25%		0.0%					
\$134,352												
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION							
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign	
PRIME: Morais Construction/West Coast Docks	\$134,352	White	X		100.0%	--	--	--	--	--	--	--
SUBS: None					--	--	--	--	--	--	--	--
					--	--	--	--	--	--	--	--
					--	--	--	--	--	--	--	--
					--	--	--	--	--	--	--	--
					--	--	--	--	--	--	--	--
					--	--	--	--	--	--	--	--
					--	--	--	--	--	--	--	--
TOTAL		\$134,352			100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)												
	White Men	White Women	Ethnic Minorities	Total Employees								
No. of Employees:	1	1	3	5								
Percent of Total Employees:	20.0%	20.0%	60.0%									
MSA Labor Market %:	32.7%	30.0%	37.3%									
MSA Labor Market Location:	Sacramento											
COMMENTS												
Contract Equity Participation - 100% White Men participation.												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Pardee Marina Floatation Replacement Project		Ethnic Minority Percentages From U.S. Census Data							
		National	B	H	A/PI	AI/AN	TOTAL		
		9 Bay Area Counties	10.5	10.7	3.7	0.7	27.3		
		Alameda/CC Counties	5.5	16.2	14.2	0.4	39.9		
General Services Agreement		DATE: 7/20/2015	10.7	15.6	15.4	0.5	46.2		
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	WM	Company Wide	-	3	-	-	3	60.0%	37.3%
Morais Construction/West Coast Docks Jon Morais 14591 Walnut Grove Rd Walnut Grove, CA 95690 916-997-0087		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	3	-	-	3	100.0%	
		Bay Area	-	-	-	-	-	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		9/25/2012		
		Co. Wide MSA:	Sacramento		# Employees-Co. Wide:		5 Bay Area: 0		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
P	EMM:AI/AN	Company Wide	-	1	2	-	3	17.6%	37.3%
Ahtna Government Services Corporation David Frenzel 3100 Beacon Blvd. West Sacramento, CA 95691 916-372-2000		Manager/Prof	-	1	2	-	3	20.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Sacramento		# Employees-Co. Wide:		17 Bay Area: 0		
P	WM	Company Wide	Information not Provided						
Bellingham Marine Industries 1205 Business Park Dr Dixon, CA 9562. 707-678-2385		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.
MEETING DATE

7.
July 28, 2015

**TITLE MWWTP OXYGEN PRODUCTION PLANT INSULATION REMOVAL AND
 INSTALLATION**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize an agreement beginning on or after August 17, 2015 with Pennsylvania Perlite Corporation in an amount not to exceed \$85,000 for removing, storing, and installing insulation material at Oxygen Production Plant No. 1 at the Main Wastewater Treatment Plant (MWWTP).

SUMMARY



The District produces high-purity oxygen at the MWWTP for use in its activated sludge secondary treatment process. The cryogenic oxygen generating facility includes two plants that were constructed in 1975. This service agreement includes the removal and installation of approximately 8,500 cubic feet of perlite insulation and 350 cubic feet of vermiculite insulation from the cold box and turbine box, respectively, to accommodate maintenance repair work inside Oxygen Production Plant No. 1.

DISCUSSION

Staff is unable to effectively monitor the temperature of the cryogenic oxygen generating facility and consistently maintain process reliability due to a malfunctioning thermocouple. In order to repair the thermocouple, existing insulation material (perlite and vermiculite) needs to be removed. Once removed, the insulation material will be stored and then reinstalled once the work is complete because it has nine years remaining out of its estimated 15-year service life. The scope of work of this service agreement is to remove the insulation material, store it for up to a 30-day period, and reinstall the insulation material.

SERVICE PROVIDER SELECTION

Requests for quotations were sent to three potential proposers. One bid was received, which is reasonable and within the range of the engineer's estimate. The engineer's estimate for this work is \$90,000. This work is highly specialized and only three contractors in the country perform this type of work.

Funds Available: FY16		Budget Code: 911/0500490/5312
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Bennett K. Horenstein	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

Funds are available for this work under the FY16 Oxygen Production Plant Repair operating budget.

ALTERNATIVES

Perform the work using District forces. This alternative is not recommended because this is highly specialized work which the District does not perform.

Do not award this contract. This alternative is not recommended because loss of process control and reliability at the cryogenic oxygen production facility may have significant regulatory compliance impacts.

Rebid and/or select an alternative vendor. Rebidding the work is not recommended because the sole bid received is reasonable, and rebidding the work would result in a significant delay, increased project costs and regulatory compliance risks. Selecting an alternative vendor is also not recommended because this work is highly specialized, and only one contractor provided a bid that can accommodate the District's contract requirements and schedule constraints.

Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE General Services Agreement MWWTP Oxygen Production Plant No.1 Cold Box Insulation Removal				DATE: July 14, 2015							
CONTRACTOR: Pennsylvania Perlite Corporation Bethlehem, PA				PERCENTAGE OF CONTRACT DOLLARS							
Sole Bidder				Availability Group	Contracting Objectives	Participation					
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	0.0%						
	Ethnicity	Gender	White Women	6%	100.0%						
\$85,000	White	Women	Ethnic Minorities	25%	0.0%						
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: Pennsylvania Perlite Corporation	\$85,000	White		X	---	100.0%	---	---	---	---	---
SUBS: None					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
TOTAL	\$85,000				0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)											
	White Men	White Women	Ethnic Minorities	Total Employees							
No. of Employees:	9	3	9	21							
Percent of Total Employees:	42.9%	14.3%	42.9%								
MSA Labor Market %:	46.4%	40.2%	13.4%								
MSA Labor Market Location:	Pennsylvania										
COMMENTS											
Contract Equity Participation - 100% White Women participation.											
*Total not to exceed \$85,000.											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA				 			



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: MWWTP Oxygen Production Plant No.1 Cold Box Insulation Removal		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
General Services Agreement		DATE: 7/14/2015	Number of Ethnic Minority Employees						
R=Recmmd P=Prime S=Sub	Composition of Ownership								
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	WW	Company Wide	1	8	-	-	9	42.9%	13.4%
Pennsylvania Perlite Corp. Susan Sharkan-Abud 1428 Mauch Chunk Road Bethlehem, PA 18108 610-868-0992		Manager/Prof	-	1	-	-	1	33.3%	
		Technical/Sales	-	3	-	-	3	100.0%	
		Clerical/Skilled	-	2	-	-	2	16.7%	
		Semi/Unskilled	1	2	-	-	3	100.0%	
		Bay Area	-	-	-	-	-	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		NA		
		Co. Wide MSA:	Pennsylvania		# Employees-Co. Wide:		21 Bay Area: 0		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.

8.

MEETING DATE

July 28, 2015

**TITLE AGREEMENT FOR PRELIMINARY ENGINEERING SERVICES FOR FOOD
WASTE PROCESSING FACILITIES**☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____**RECOMMENDED ACTION**



Authorize an agreement beginning on or after July 28, 2015 with Harvest Power Tulare, LLC (HPT) in an amount not to exceed \$261,000 for preliminary engineering services for design of food waste processing facilities at the Main Wastewater Treatment Plant (MWWTP).

SUMMARY

On June 23, 2015, the Board authorized a contract with Waste Management of Alameda County (WMAC) for delivery of food waste from the City of Oakland for digestion and renewable energy generation at the MWWTP. The District requires design and construction of preprocessing facilities for contaminant removal and size reduction, as well as postprocessing facilities for solids dewatering and compressed natural gas production. The WMAC contract requires the District's food waste processing facilities to be operational by July 1, 2016. As discussed at the Sustainability/Energy Committee (May 26, June 9, and July 28, 2015), Planning Committee (May 12, 2015), and Finance/Administration Committee (June 23, 2015) meetings, staff has been negotiating with HPT's parent company, Harvest Power, Inc., to design, build, and operate the required facilities with a contract scheduled for Board consideration in September. HPT is currently completing preliminary design services for the preprocessing facilities at its own risk ahead of a contract with the District to meet the required operational date. The recommended action provides for preliminary engineering design services to keep the project on schedule with these costs applied toward the District's capital contribution under the full project contract. In the event that the full contract is not executed, the cost of the preliminary design services will be shared equally between the District and HPT.

DISCUSSION

In February 2015, the District initiated a request for proposals (RFP) process to select a company to design, build, and operate the required food waste processing facilities under a public-private partnership, while also providing the processing equipment technologies required for successful project operation. Harvest Power, Inc. submitted a proposal in the name of an HPT affiliate, Harvest Power California, LLC (HPC). In April 2015, the District selected Harvest Power, Inc.'s proposal based on its technological

Funds Available: FY16		Budget Code: WWC/2009161/5231
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Bennett K. Horenstein	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

capabilities, operating experience, and approach to meeting the aggressive project schedule. Following selection, the District has been negotiating a contract for design, build, and operation of the required facilities, which is expected to be submitted for Board consideration in September. On June 23, 2015, the Board authorized a memorandum of understanding between the District and HPC setting forth principles to guide contract negotiations.

In advance of the full project contract execution, preliminary engineering services are required to keep the project on schedule. Harvest Power, Inc. has requested that the District contract with HPT and not with HPC because HPT has been awarded state grant funds that are important to the project. HPT will be the entity responsible for performing the preliminary engineering services under this contract and, ultimately, for developing the full project. This preliminary engineering services contract would cover HPT's initial costs to develop site layouts, foundation and building designs, major equipment layouts, site utility connections, and project permitting. Following authorization of the full project contract, HPT would proceed with detailed design, construction, startup, and operation of the food waste processing facilities. These preliminary engineering design costs would be part of the District's financial obligation under the full project contract that is under development. This preliminary engineering contract provides that the District shall receive a credit in the full project contract for the full amount of payments made under the preliminary engineering contract. In the event the full contract is not executed, then the costs for preliminary engineering services will be shared equally between the District and HPT.

The memorandum of understanding between the District and HPC approved by the Board on June 23, 2015 will be assigned to HPT to reflect HPT's role as the Harvest Power affiliate responsible for the project. The District is negotiating for a parent guaranty in the full project agreement under which Harvest Power, Inc. would agree to be liable for the performance of its subsidiary entities.

This agreement will obligate each party to indemnify the other for claims or losses arising from that party's negligence or willful misconduct in its performance under this agreement.

CONSULTANT SELECTION

Requests for proposals were sent to 11 firms with expertise in solid waste collection, processing, and handling and placed on the District's website. Two firms submitted proposals and were interviewed. Harvest Power, Inc. was selected based on its technological capabilities, operating experience, and approach to meeting the aggressive project schedule.

CONTRACT EQUITY PROGRAM EFFORTS

The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

Funding for this agreement is included in the FY16 budget for the organics preprocessing project.

UNION NOTIFICATION

Locals 2019 and 21 were notified of this contract on July 17, 2015 and did not raise any specific issues related to this contract.

ALTERNATIVES

Do not authorize the contract with HPT. This alternative is not recommended because it would delay project design, construction, and operation and adversely impact the District's ability to meet the required July 1, 2016 operational date.


Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE Professional Services Agreement Harvest Power Preliminary Engineering Services					DATE: July 15, 2015							
CONTRACTOR: Harvest Power Tulare, LLC Fresno, CA					PERCENTAGE OF CONTRACT DOLLARS							
					Availability Group		Contracting Objectives		Participation			
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP			White Men		25%		100.0%			
		Ethnicity	Gender		White Women		6%		0.0%			
\$261,000 *		White	Men		Ethnic Minorities		25%		0.0%			
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: Harvest Power Tulare, LLC		\$261,000	White	X		100.0%	--	--	--	--	--	--
SUBS: Layne Heavy Civil, Inc.		TBD	Publicly Held			--	--	--	--	--	--	--
AUSPARK, LLC		TBD	White	X		--	--	--	--	--	--	--
Western Building Consultants DBA D. Edwards, Inc.		TBD	Hispanic		X	--	--	--	--	--	--	--
J.R. Miller & Associates		TBD	White	X		--	--	--	--	--	--	--
International Disposal Corporation of California		TBD	Publicly Held			--	--	--	--	--	--	--
Republic Services of Contra Costa County		TBD	Publicly Held			--	--	--	--	--	--	--
TOTAL		\$261,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		4		3		19		26				
Percent of Total Employees:		15.4%		11.5%		73.1%						
MSA Labor Market %:		28.0%		23.6%		48.4%						
MSA Labor Market Location:		California										
COMMENTS												
Contract Equity Participation - 100% White Men participation.												
*Total not to exceed \$261,000.												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				YES								



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Harvest Power Preliminary Engineering Services		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	WM	Company Wide	-	19	-	-	19	73.1%	48.4%
Harvest Power Tulare, LLC Paul Sellew 6943 N. Golden Blvd Fresno, CA 93772 510-234-9448		Manager/Prof	-	7	-	-	7	100.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	2	-	-	2	100.0%	
		Semi/Unskilled	-	17	-	-	17	100.0%	
		Bay Area	-	-	-	-	-	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		NA		
		Co. Wide MSA:	California		# Employees-Co. Wide:		26	Bay Area: 0	
S	Publicly Held	Company Wide	25	154	-	1	180	31.4%	27.2%
Layne Heavy Civil Les Archer 4520 N. State Road 37 Orleans, IN 47452 812-865-3232		Manager/Prof	2	13	-	1	16	10.6%	
		Technical/Sales	2	26	-	-	28	34.1%	
		Clerical/Skilled	9	52	-	-	61	37.0%	
		Semi/Unskilled	12	63	-	-	75	42.6%	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		574	Bay Area: 0	
S	WM	Company Wide	-	-	1	-	1	50.0%	26.9%
AUSPARK, LLC Alessandro Massone 301 McCullough Dr, 4th Fl. Charlotte, NC 28262 704-322-2465		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	1	-	1	100.0%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	North Carolina		# Employees-Co. Wide:		2	Bay Area: 0	
S	EMW:H	Company Wide	-	1	1	-	2	25.0%	48.4%
Western Building Consulting DBA D. Edwards, Inc. Wendy Edwards 500 S. Kraemer Blvd, Ste 180 Brea, CA 92821 714-582-3288		Manager/Prof	-	1	1	-	2	28.6%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		8	Bay Area: 0	
S	WM	Company Wide	-	10	7	-	17	48.6%	63.5%
J.R. Miller and Associates James R. Miller 2700 Saturn St Brea, CA 92821 714-524-1870		Manager/Prof	-	3	3	-	6	37.5%	
		Technical/Sales	-	5	4	-	9	69.2%	
		Clerical/Skilled	-	2	-	-	2	33.3%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	Los Angeles/Long Beach		# Employees-Co. Wide:		35	Bay Area: 0	
S	Publicly Held	Company Wide	-	20	3	-	23	76.7%	48.4%
International Disposal Corporation of California Michael Caprio 1801 Dixon Landing Rd Milpitas, CA 95035 408-945-2802		Manager/Prof	-	1	1	-	2	50.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	9	-	-	9	100.0%	
		Semi/Unskilled	-	10	2	-	12	70.6%	
		Bay Area	-	-	-	-	-	NA	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		30	Bay Area: 0	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title:		Ethnic Minority Percentages From U.S. Census Data								
Harvest Power Preliminary Engineering Services			B	H	A/PI	AI/AN	TOTAL			
		National	10.5	10.7	3.7	0.7	27.3			
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9			
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2			
Professional Services Agreement		DATE:	7/15/2015							
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees								
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
S	Publicly Held	Company Wide	21	95	9	-	125	70.6%	27.2%	
Republic Services of Contra Costa County Mark Prochaska 411 N. Buchanan Cir Pacheco, CA 94553 925-685-4716		Manager/Prof	3	3	2	-	8	42.1%		
		Technical/Sales	3	6	2	-	11	57.9%		
		Clerical/Skilled	2	15	3	-	20	60.6%		
		Semi/Unskilled	13	71	2	-	86	81.1%		
		Bay Area	-	-	-	-	-	NA	39.9%	
		Co. Wide MSA:	Total USA				# Employees-Co. Wide:	177	Bay Area:	0
		Company Wide								
		Manager/Prof								
		Technical/Sales								
		Clerical/Skilled								
		Semi/Unskilled								
		Bay Area								
		Co. Wide MSA:	# Employees-Co. Wide:					Bay Area:		
P	WM	Company Wide	305	994	214	25	1,538	53.4%	27.2%	
Recology East Bay Michael Sangiacomo 50 California St, 24th Fl San Francisco, CA 94111 415-715-6273		Manager/Prof	33	51	42	3	129	32.9%		
		Technical/Sales	2	2	1	-	5	13.5%		
		Clerical/Skilled	33	130	48	9	220	44.5%		
		Semi/Unskilled	237	811	123	13	1,184	60.5%		
		Bay Area	-	-	-	-	-	NA	39.9%	
		Co. Wide MSA:	Total USA				# Employees-Co. Wide:	2,879	Bay Area:	0
		Company Wide								
		Manager/Prof								
		Technical/Sales								
		Clerical/Skilled								
		Semi/Unskilled								
		Bay Area								
		Co. Wide MSA:	# Employees-Co. Wide:					Bay Area:		
		Company Wide								
		Manager/Prof								
		Technical/Sales								
		Clerical/Skilled								
		Semi/Unskilled								
		Bay Area								
		Co. Wide MSA:	# Employees-Co. Wide:					Bay Area:		
		Company Wide								
		Manager/Prof								
		Technical/Sales								
		Clerical/Skilled								
		Semi/Unskilled								
		Bay Area								
		Co. Wide MSA:	# Employees-Co. Wide:					Bay Area:		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.

9.

MEETING DATE

July 28, 2015

**TITLE ASSIGNMENT OF COMPRESSOR SERVICE AND PARTS REFURBISHMENT
CONTRACT**☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____**RECOMMENDED ACTION**

Approve the assignment of the compressor service and parts contract to Ingersoll Rand. This contract was previously awarded to Cameron Compression by Board Motion 173-14 on October 28, 2014.

SUMMARY

The District entered into a contract with Cameron Compression to provide compressor service and parts refurbishment at the Main Wastewater Treatment Plant. Ingersoll Rand subsequently acquired Cameron Compression and previous purchase orders with the District need to be reassigned to Ingersoll Rand. All Cameron Compression contract obligations with the District will remain in full force and effect with Ingersoll Rand. Because the same work group will provide the service and parts refurbishment under Ingersoll Rand, staff has determined that assignment will not affect the performance of this contract.

CONTRACT EQUITY PROGRAM EFFORTS



The completed P-035 and P-061 forms are attached.

FISCAL IMPACT

There is no fiscal impact as a result of this assignment. Ingersoll Rand will continue to provide compressor repair and parts refurbishment services.

ALTERNATIVES

Void the contract and rebid. This alternative is not recommended because the recommended contractor is well qualified, offers competitive prices, and has provided excellent and responsive service during the current contract.

Funds Available: FY16		Budget Code: 911/7999/2008646/5312
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED
Wastewater	 Bennett K. Horenstein	 General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Assignment of Compressor Service and Parts Refurbishment Contract
July 28, 2015
Page 2

Delay or do not proceed with the work. This alternative is not recommended because these compressors are high-speed rotary machines that require scheduled maintenance to maintain effective and reliable operation.

Attachments

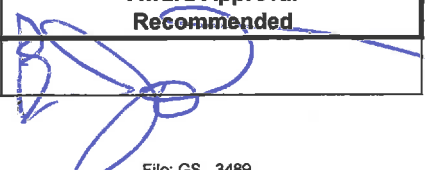
P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary

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CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE General Services Agreement Assignment of Compressor Service and Parts Refurbishment Contract - Three Year Contract with 2 One-Year Options to Renew						DATE: June 9, 2015						
CONTRACTOR: Ingersoll Rand Buffalo, NY					PERCENTAGE OF CONTRACT DOLLARS							
BID/PROPOSER'S PRICE: \$200,000 */year		FIRM'S OWNERSHIP			White Men		25%		0.0%			
		Ethnicity		Gender	White Women		6%		0.0%			
		Publicly Held			Ethnic Minorities		25%		0.0%			
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: Ingersoll Rand		\$200,000	Publicly Held			--	--	--	--	100.0%	--	--
SUBS: None						--	--	--	--	--	--	--
						--	--	--	--	--	--	--
						--	--	--	--	--	--	--
						--	--	--	--	--	--	--
						--	--	--	--	--	--	--
						--	--	--	--	--	--	--
						--	--	--	--	--	--	--
TOTAL		\$200,000				0.0%	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		530		67		24		621				
Percent of Total Employees:		85.3%		10.8%		3.9%						
MSA Labor Market %:		35.0%		30.9%		34.1%						
MSA Labor Market Location:		New York										
COMMENTS												
Contract Equity Participation - Zero Contract Equity participation since firm is a publicly held corporation and no subcontract opportunities exist.												
*Total not to exceed \$1,000,000.												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Assignment of Compressor Service and Parts Refurbishment Contract - Three Year Contract with 2 One-Year Options to Renew		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
General Services Agreement		DATE: 6/9/2015	9 Bay Area Counties		5.5	16.2	14.2	0.4	39.9
		Alameda/CC Counties		10.7	15.6	15.4	0.5	46.2	
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	Publicly Held	Company Wide	6	10	8	-	24	3.9%	34.1%
Ingersoll Rand Yulia Austin 3101 Broadway Buffalo, NY 14225 716-896-6600		Manager/Prof	2	7	8	-	17	4.9%	
		Technical/Sales	-	2	-	-	2	4.5%	
		Clerical/Skilled	2	-	-	-	2	1.2%	
		Semi/Unskilled	2	1	-	-	3	4.9%	
		Bay Area	-	-	-	-	-	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		6/1/2012		
		Co. Wide MSA:	New York		# Employees-Co. Wide:		621 Bay Area: 0		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 23, 2015

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Cancel the August 25, 2015 Closed Session and Regular Meetings
of the Board of Directors

The Board of Directors has traditionally cancelled the Board meetings scheduled for the fourth Tuesday in August, provided it did not adversely impact the operations of the District, to accommodate planned vacations of Directors and staff. This action would provide an opportunity for a vacation period from August 12 through September 4, 2015.

The first regular meetings of the Board after the vacation would be held on Tuesday, September 8, 2015 with Closed Session being held at 11:00 a.m. and the Regular Business meeting being held at 1:15 p.m.

Monday, September 7 is the Labor Day holiday, and Wednesday, September 9 is the Admission Day holiday. Both days are District observed holidays with the District offices being closed.

ARC:lm1

I:SEC/Board Related Items/2015 Board Related Items/072815 Board Items:OGM - Cancellation of 082515_ board mtgs



AGENDA NO.

11.

MEETING DATE

July 28, 2015

TITLE SUPPORT OF THE SAN FRANCISCO BAY-DELTA ESTUARY☐ MOTION ☒ RESOLUTION ☐ ORDINANCE**RECOMMENDED ACTION**

Approve a resolution supporting San Francisco Bay-Delta Estuary.



SUMMARY

The San Francisco Bay-Delta Estuary is a magnificent and unique natural resource that sustains a diverse mix of plants, fish, and wildlife, and enhances the quality of life in California. The estuary and its watersheds serve as a water supply for nearly two-thirds of the state's population, including the District. EBMUD was recently asked by Friends of the Estuary to consider adopting a resolution that would demonstrate the District's commitment to protecting the health of the estuary and express the District's intention to remain engaged in projects and policies that will improve the sustainability of the estuary. The resolution (attached) was discussed at the July 28 Sustainability/Energy Committee meeting.

DISCUSSION

The San Francisco Bay-Delta Estuary is the largest on the West Coast, draining nearly 40 percent of California's land area, providing drinking water to nearly two-thirds of the state's population, and supplying irrigation water to four million acres of farmland. Although significantly altered since 1850, the estuary still supports hundreds of fish, wildlife, and plant species, many found nowhere else on earth. Almost two-thirds of the state's salmon travel through the estuary as young fish and return to spawn as adults and almost half of the migratory birds on the Pacific Flyway pass by the Golden Gate or stop by the Bay-Delta's wetlands. The brackish Suisun Marsh provides critical habitat to many species important to the estuarine ecosystem.

The estuary is at risk from many factors, and the state and federal governments are considering large-scale changes to address these factors. These include new water conveyance through and around the Delta to address state-wide water supply needs, changes to the Bay-Delta ecosystem to address declining ecosystem health and fish populations, and changes to water allocations and management. The latter are expected to be established primarily through the SWRCB proceeding to update the Water Quality Control Plan. These changes will enhance the long-term health of the San Francisco Bay-Delta Estuary.

Funds Available: FY16		Budget Code: WSC/WNR/455/2005805
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT MANAGER or DIRECTOR  Richard G. Sykes	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

The Friends of the Estuary are encouraging public agencies to pass resolutions recognizing the critical role of the Bay-Delta estuary as a natural resource and the role of freshwater flows in sustaining it. Entities that have passed resolutions on this matter include Contra Costa County, Marin Municipal Water District, and the Association of Bay Area Governments.

The resolution requests that certain principles be applied in the ongoing Bay-Delta planning processes, including protection and restoration of ecosystems, recognition of the need for reliable water supplies, sustainable approaches to improving water supply reliability, and funding consistent with beneficiary pays principles. The principles presented in the resolution are consistent with District Policy 9.06R on Bay-Delta Protection.

FISCAL IMPACT

There is no fiscal impact associated with the Board's adoption of the resolution.

ALTERNATIVE

Do not pass a resolution of support for the San Francisco Bay-Delta Estuary. This alternative is not recommended because the resolution is consistent with District Policy 9.06 – Bay -Delta Protection and with the District's mission of environmental stewardship.

RGS:DIW:pgs

Attachment

RESOLUTION NO. _____

PROCLAIMING SUPPORT FOR THE SAN FRANCISCO BAY-DELTA ESTUARY

Introduced by Director

; Seconded by Director

WHEREAS, the East Bay Municipal Utility District serves nearly 1.4 million customers in Alameda and Contra Costa Counties with safe and reliable drinking water, conveys 90 percent of its water supply for customers through its Mokelumne Aqueducts that cross the Delta, and the District has stewardship responsibilities in watersheds tributary to the San Francisco Bay-Delta Estuary; and

WHEREAS, EBMUD's strategic plan specifically identifies protection and stewardship of San Francisco Bay as an organizational priority and EBMUD continues to make substantial investments in Bay protection at its wastewater treatment facilities and through stewardship activities that include pollution prevention programs and resource recovery programs; and

WHEREAS, the San Francisco Bay-Delta Estuary is the largest on the west coast and supports hundreds of fish, wildlife, and plant species, many found nowhere else on earth, and provides critical habitat to many species; and

WHEREAS, the state and federal governments are considering large-scale changes to water conveyance facilities through and around the Delta, to the Bay-Delta ecosystem and to water allocations and management that would impact the long-term health of the San Francisco Bay-Delta Estuary; and

WHEREAS, the Association of Bay Area Governments/San Francisco Estuary Partnership's 2011 State of the Bay report, among other studies, indicates that fish abundance and diversity are declining in all regions of the Bay except near the Golden Gate; and

WHEREAS, a 2015 Bay Area Council poll found that the number one item of concern among Bay Area residents is water supply; and

WHEREAS, EBMUD's customers may be impacted by actions in the Delta that could affect the health of the San Francisco Bay;

NOW, THEREFORE, BE IT RESOLVED that the East Bay Municipal Utility District Board of Directors hereby expresses its interest in the ongoing Bay-Delta activities of the Delta Stewardship Council, the Governor's California Water Action Plan, and the State Water Board's Delta planning and regulatory efforts, and urges that as part of any actions taken or solutions or conclusions reached in these critical planning and regulatory processes, the following principles be applied:

Protect and restore the Bay-Delta ecosystem. Changes to protect and restore a healthy sustainable Bay-Delta ecosystem must include improvements in water quality, flows and flow patterns, and habitat to support fisheries and wildlife.

Protect the reliability of urban water supplies. The Bay-Delta watershed is a critical source of water supplies and the reliability of the water supply is critical to the health and quality of life of all Californians.

Acknowledge the criticality of Delta outflows. Acknowledge the criticality of Delta outflows to San Francisco Bay to support fisheries, wildlife, habitat, water quality and other beneficial uses without compromising the health and safety of public drinking water supplies.

Promote regional self-sufficiency. To the extent feasible, incorporate sustainable approaches for improved water supply, water quality and reliability to increase regional self-sufficiency, linked specifically to reducing future reliance on increased exports from the Delta and reducing the current impacts on the Bay-Delta ecosystem.

Protect the quality of life in Bay Area communities. Protect the economic viability of industry, recreation, tourism, fisheries, and agriculture, and the ongoing vitality of communities throughout the East Bay.

Ensure fair representation of stakeholders in decision-making. Represent and include local governments in any new governance structures for the Delta.

Address flood protection. Support funding and implementation of urban and non-urban flood protection, at the appropriate level of protection, through rehabilitation and restoration of wetlands wherever feasible, and improvement and maintenance of flood control levees and structures, where necessary.

Foster coordinated emergency response planning for the Delta. Emergency response plans should be developed for the Delta. The restoration of public water service, which is vital for public health and safety, should be prioritized in such plans. The state should encourage all water purveyors reliant on the Delta to develop contingency plans for continued water service in the event of catastrophic failure of the Delta levee system.

Fair and equitable financing plans. Assurances and safeguards must be provided in financing mechanisms to avoid any broad-based state water tax or fee on local communities. Local communities should only be requested to finance project(s), if any, in proportion to the benefit they receive from a project and should not be requested to bear costs for actions that benefit

others. Parties that propose new facilities in the Delta must be responsible for financing such projects, including mitigation of existing or future environmental impacts.

ADOPTED this 28th day of July, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

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AGENDA NO.

12.

MEETING DATE

July 28, 2015

**TITLE SUPPORT OF THE MOKELUMNE WATERSHED INTERREGIONAL
SUSTAINABILITY EVALUATION PROGRAM**☐ MOTION ☒ RESOLUTION ☐ ORDINANCE**RECOMMENDED ACTION**

Approve a resolution supporting the Mokelumne Watershed Interregional Sustainability Evaluation (MokeWISE) Program.

SUMMARY

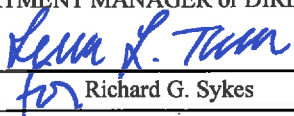

The MokeWISE Program was recently completed. Initiated in the fall of 2014, as a partnership, grant-funded effort on behalf of the Upper Mokelumne River Watershed Authority (UMRWA) and the Eastern San Joaquin County Groundwater Basin Authority (GBA), the MokeWISE process yielded a broadly supported water resources program that includes a comprehensive suite of projects and policies aimed at sustainable watershed management in the Mokelumne River Watershed. EBMUD was an active member of the MokeWISE development process. UMRWA and the GBA are asking participants to adopt resolutions in support of MokeWISE's outcome. This item was discussed at the July 14, 2015 Planning Committee.

DISCUSSION

The purpose of the MokeWISE Program was to generate a portfolio of water supply and environmental projects in the Mokelumne watershed supported by a large group of stakeholders that could then be pursued for grant funding. Funding could be sought from a number of sources, given that a broad group of stakeholders worked on the effort and supported the outcome.

Water agency interests in San Joaquin County, Amador County and Calaveras County were among the stakeholders. Several key environmental organizations such as the Sierra Club and the Foothill Conservancy also participated. In total, 26 agencies and organizations engaged in the collaborative process.

A wide array of project concepts were brought forward for consideration. Projects were screened to determine if fatal flaws, limited benefits, strong opposition, or the potential to create unintended consequences made them infeasible. Cost estimates and detailed project descriptions were developed for projects that advanced in the screening process. Issues such as water availability, environmental impacts,

Funds Available: FY16		Budget Code: WSC/WNR/455/2005805
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT MANAGER or DIRECTOR  for Richard G. Sykes	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Resolution of Support of the MokeWISE Program

July 28, 2015

Page 2

and outreach commitments were vetted for each project. Twenty five projects were included in the final MokeWISE Implementation Plan.

UMRWA and the GBA are requesting that each stakeholder agency and organization adopt a resolution of support for the MokeWISE Program. The resolution notes that support also applies to the projects contained in the Implementation Plan.

Over the next months and years, water agencies and other organizations will work individually and in groups to further develop projects, apply for grant funding and proceed to implementation.

FISCAL IMPACT

Adoption of the resolution will not result in a fiscal impact.

ALTERNATIVE

Do not pass a resolution of support for the MokeWISE Program. This alternative is not recommended because this stakeholder driven effort could lead to water supply and environmental benefits for EBMUD and other Mokelumne River stakeholders.

RGS:MTT:acr

Attachment

I:\Sec\2015 Board Related Items\Board Packets 2015\07-28-15 Board Items\WNR - Mokewise Support Resolution.Docx

RESOLUTION NO. _____

SUPPORT OF THE MOKELUMNE WATERSHED INTERREGIONAL
SUSTAINABILITY EVALUATION PROGRAM

Introduced by Director

; Seconded by Director

WHEREAS, the Upper Mokelumne River Watershed Authority (UMRWA) is a Joint Powers Authority comprised of six water agencies and the counties of Amador, Calaveras and Alpine. The six water agencies are Amador Water Agency, Calaveras County Water District, Calaveras Public Utility District, Jackson Valley Irrigation District, Alpine County Water Agency and East Bay Municipal Utility District (EBMUD); and

WHEREAS, UMRWA and the Eastern San Joaquin County Groundwater Basin Authority (GBA) have joined together to pursue completion of the Mokelumne Watershed Interregional Sustainability Evaluation (MokeWISE) Program, a Mokelumne River watershed focused interregional water resources planning program; and

WHEREAS, the California Department of Water Resources has provided \$878,605 in Proposition 84 grant funding in support for developing the \$1,258,770 MokeWISE Program; and

WHEREAS, stakeholder entities representing a diverse set of Upper and Lower Mokelumne River watershed interests formed into the Mokelumne Collaborative Group (MCG) to guide the development of a broadly supported MokeWISE Program which includes projects, policies and other initiatives to enhance groundwater management, water supply reliability and Mokelumne River natural resources; and

WHEREAS, EBMUD participated as a member of the MCG; and

WHEREAS, an expression of support of the MokeWISE Program is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines §15262 and §15306 because the MokeWISE Program involves only general planning studies for possible future actions that project sponsors and others have not yet approved, adopted or funded and therefore would not result in the disturbance of any environmental resource;

NOW, THEREFORE, BE IT RESOLVED that the EBMUD Board of Directors hereby expresses its support for the Mokelumne Watershed Interregional Sustainability Evaluation Program (as expressed in the Implementation Plan), based on the following understandings:

- The projects identified in the Implementation Plan are those that are broadly supported by the MCG member agencies.

- Adoption of this resolution implies support for the projects within the Implementation Plan.
- Implementation Plan Projects will, when and as applicable, be subject to compliance with the California Environmental Quality Act, the National Environmental Policy Act, federal Endangered Species Act, California Endangered Species Act, and other applicable regulatory and permitting requirements.
- Funding to implement MokeWISE Implementation Plan Projects will be sought from available funding programs as described in the Implementation Plan.
- Studies and analyses performed as part of MokeWISE, included as appendices to the MokeWISE Implementation Plan, were prepared with the understanding that they were exploratory, conceptual exercises and are not designed, intended or suitable to be introduced as evidence in any water rights proceeding. Appropriate analyses will be completed and adopted by project stakeholders in the future before proceeding with an Implementation Plan Project.

ADOPTED this 28th day of July, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

ITEM #13

Public Hearing

Please refer to Item #14



AGENDA NO.
MEETING DATE

14.
July 28, 2015

**TITLE TRANSFER DELINQUENT EBMUD CHARGES TO THE ALAMEDA AND CONTRA
COSTA COUNTIES' 2015-2016 PROPERTY TAX ROLLS**

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Conduct a Public Hearing to consider objections and protests to the General Manager's Report to Transfer Delinquent EBMUD Charges to the 2015-2016 Property Tax Rolls. Adopt the General Manager's Report and authorize the General Manager to exclude from the Report any affected parcels or amounts as appropriate, including those that the District receives payment for on or before the reports are sent to Alameda and Contra Costa counties in electronic form on August 7, 2015.

SUMMARY

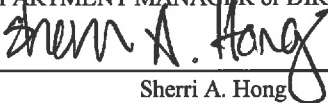

Staff recommends that the Board adopt the report filed on July 28, 2015, to transfer the District's multi-family residential (MFR) delinquent charges to the 2015-2016 property tax rolls, and authorize the General Manager to submit the reports in electronic form to the counties of Alameda and Contra Costa on August 7, 2015, with the following exclusions:

Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll
(Attachment 1)

- The Assessor's Parcel Number (APN) and delinquent charges excluded by the Board at the Public Hearing on July 28, 2015;
- Any APN and delinquent charges excluded by the General Manager after July 28, 2015; and
- Any APN and delinquent charges that the District receives payment on or before August 7, 2015.

Delinquent EBMUD Charges for Transfer to the Contra Costa County 2015-2016 Property Tax Roll
(Attachment 2)

- The Assessor's Parcel Number (APN) and delinquent charges excluded by the Board at the Public Hearing on July 28, 2015;
- Any APN and delinquent charges excluded by the General Manager after July 28, 2015; and
- Any APN and delinquent charges that the District receives payment on or before August 7, 2015.

Funds Available: FY16		Budget Code:
DEPARTMENT SUBMITTING Customer & Community Services	DEPARTMENT MANAGER or DIRECTOR  Sherri A. Hong	APPROVED  General Manager

DISCUSSION

Under the authority of MUD Act Section 12811.1, the District is able to collect MFR delinquent charges by monthly lien filings or annual transfers to the property tax rolls from January 1, 2011 to January 1, 2016. Staff is currently working to advance District-sponsored legislation proposing a legislative action to remove the sunset date of January 1, 2016 from the MUD Act. The District has been using this authority as an alternative to terminating water service provided to tenants, when the property owner or customer of record fails to pay the delinquent charges for \$100 or more.

The District has filed 2,202 liens totaling \$1,614,892 on parcel owners' properties for unpaid MFR delinquent charges from July 1, 2014 to June 30, 2015. Of this total, 1,679 liens affecting 470 parcels of property with \$1,288,712 in delinquent charges remain unpaid. The General Manager's Report filed with the Board on July 14, 2015, identified all 470 affected parcels' APN and the associated delinquent charges recommended for transfer to the Alameda and Contra Costa counties' 2015-2016 Property Tax Rolls. Staff will file a revised report on July 28, 2015, reflecting payments received after July 14, 2015.

State law requires that a public hearing must be held before unpaid delinquent charges are transferred to the property tax rolls and owners of affected parcels must be given 14 days advance notice of the specific day, time and place of the public hearing. Notices of the July 28, 2015 public hearing were mailed to the property owners of the 470 affected parcels by July 10, 2015. Newspaper ads regarding the public hearing were also placed for publication on July 7 and 14, 2015.

NEXT STEPS

Staff is currently working to advance District-sponsored legislation (SB188) proposing a legislative action to remove the sunset date of January 1, 2016 from the MUD Act. If the legislation is approved this will allow the District to continue the lien program indefinitely beyond January 1, 2016.

Attachments

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount
00	030	1976	009	00	897	\$457.37
00	052	1543	006	00	897	\$191.04
00	056	1929	029	00	897	\$265.69
00	019	0035	020	00	897	\$257.48
00	021	0291	013	01	00	\$1,720.24
00	038	3236	010	01	00	\$494.76
00	429	0086	003	00	897	\$490.90
00	010	0782	010	00	897	\$278.48
00	012	0948	014	02	00	\$1,921.32
00	056	1933	027	00	897	\$409.12
00	022	0309	026	00	897	\$274.01
00	033	2122	026	03	00	\$228.46
00	033	2189	006	00	897	\$257.72
00	005	0473	009	00	897	\$167.78
00	065	2659	013	00	897	\$368.92
00	429	0010	061	00	897	\$1,829.53
00	038	3242	003	00	897	\$232.44
00	004	0083	005	00	897	\$1,598.19
00	005	0378	009	00	897	\$300.13
00	015	1282	043	00	897	\$715.00
00	042	4255	1025	00	897	\$717.23
00	059	2271	033	00	897	\$272.19
00	070	0161	056	02	00	\$147.01
00	045	5171	008	00	897	\$1,268.72
00	038	3236	010	02	00	\$484.94
00	032	2032	176	00	897	\$811.36
00	429	0091	073	00	897	\$270.11
00	005	0377	022	00	897	\$678.55
00	025	0734	001	00	897	\$3,174.42
00	013	1161	007	00	897	\$239.12
00	013	1110	043	00	897	\$287.78
00	057	2073	017	00	897	\$1,242.39
00	026	0737	011	00	897	\$4,455.67
00	041	4133	017	00	897	\$242.79
00	032	2110	001	02	00	\$743.00
00	066	2802	017	00	897	\$240.59
00	032	2081	049	00	897	\$423.14
00	074	0428	004	00	897	\$191.64
00	040	A 3420	044	02	00	\$216.75
00	005	0405	004	00	897	\$456.02

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	040	3317	024	00	897	\$382.78	
00	015	1358	020	00	897	\$282.52	
00	025	0734	059	00	897	\$1,285.56	
00	044	5012	001	01	00	897	\$3,510.33
00	432	0020	033	00	897	\$309.31	
00	052	1581	020	00	897	\$1,508.02	
00	038	3221	001	00	897	\$1,697.37	
00	013	1090	008	03	00	897	\$1,056.29
00	052	1520	014	00	897	\$1,358.28	
00	013	1170	001	00	897	\$814.36	
00	015	1347	030	00	897	\$2,019.78	
00	050	4558	008	00	897	\$1,449.63	
00	015	1278	012	00	897	\$1,461.94	
00	080	B 0300	008	02	00	897	\$464.65
00	020	0211	016	00	897	\$793.04	
00	022	0329	014	00	897	\$2,130.73	
00	074	0449	084	01	00	897	\$1,498.78
00	022	0296	002	00	897	\$3,454.71	
00	026	0778	012	00	897	\$1,138.36	
00	039	3263	028	00	897	\$1,879.86	
00	035	2400	012	00	897	\$1,033.50	
00	033	2144	024	00	897	\$2,165.07	
00	043	4575	008	02	00	897	\$1,112.38
00	027	0863	031	02	00	897	\$1,990.50
00	029	A 1302	007	00	897	\$436.29	
00	029	A 1301	016	01	00	897	\$9,794.02
00	045	5419	044	02	00	897	\$1,403.29
00	006	0023	030	00	897	\$1,586.54	
00	006	0021	058	00	897	\$372.12	
00	005	0455	016	00	897	\$484.89	
00	005	0452	008	00	897	\$911.50	
00	058	2127	024	00	897	\$2,551.54	
00	005	0466	017	00	897	\$1,117.23	
00	014	1208	020	00	897	\$7,204.52	
00	070	0153	022	00	897	\$426.77	
00	414	0041	040	00	897	\$447.50	
00	033	2191	009	00	897	\$678.23	
00	039	3312	016	01	00	897	\$1,845.82
00	029	A 1306	007	05	00	897	\$718.59
00	052	1577	027	00	897	\$811.83	

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	032	2108	025	04	00	897	\$4,802.01
00	045	5200	009	02	00	897	\$394.47
00	037	A 2748	024		00	897	\$851.55
00	038	3202	012		00	897	\$911.66
00	049	1079	010	01	00	897	\$2,130.17
00	009	0726	045		00	897	\$1,057.59
00	071	0243	032		00	897	\$1,883.67
00	014	1193	014		00	897	\$2,531.98
00	041	4129	041		00	897	\$2,953.56
00	058	2171	027		00	897	\$3,290.66
00	041	4189	018	03	00	897	\$2,376.40
00	041	4189	020		00	897	\$4,774.87
00	041	4189	021		00	897	\$2,572.19
00	044	4983	037		00	897	\$2,283.08
00	044	5006	007		00	897	\$1,254.71
00	038	3234	002		00	897	\$3,443.95
00	414	0081	018		00	897	\$1,430.46
00	080	A 0217	004	01	00	897	\$1,669.48
00	076	0274	039		00	897	\$947.16
00	426	0040	012	03	00	897	\$1,627.40
00	024	0519	014	02	00	897	\$3,564.95
00	036	2415	008		00	897	\$2,009.89
00	035	2381	025		00	897	\$2,522.01
00	040	A 3457	022	01	00	897	\$2,348.23
00	431	0012	025		00	897	\$9,813.66
00	004	0091	002		00	897	\$2,496.10
00	059	2310	006		00	897	\$3,670.26
00	075	0028	004		00	897	\$1,406.57
00	005	0472	017		00	897	\$1,426.96
00	005	0466	043		00	897	\$1,422.39
00	055	1898	028		00	897	\$1,949.66
00	056	1939	016		00	897	\$3,147.36
00	029	0989	013	04	00	897	\$2,229.62
00	059	2292	025	01	00	897	\$1,920.93
00	021	0251	005		00	897	\$749.93
00	060	2450	025	02	00	897	\$1,675.91
00	046	5442	012		00	897	\$1,035.50
00	046	5459	012	01	00	897	\$3,195.05
00	032	2069	020		00	897	\$1,407.56
00	073	0414	026		00	897	\$1,164.31

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	025	0714	020	00	897	\$4,502.76	
00	044	5064	002	00	897	\$1,649.09	
00	016	1387	015	00	897	\$2,428.33	
00	032	2050	018	00	897	\$4,181.57	
00	016	1437	018	00	897	\$2,212.06	
00	005	0382	003	00	897	\$2,451.37	
00	003	0077	035	02	00	897	\$3,460.47
00	013	1085	019	03	00	897	\$4,876.88
00	012	1018	020	01	00	897	\$2,988.72
00	012	1012	050	02	00	897	\$3,074.16
00	012	0991	008		00	897	\$1,544.72
00	012	1010	053		00	897	\$3,941.95
00	012	0970	016		00	897	\$2,645.12
00	012	0972	023		00	897	\$1,910.68
00	008	0647	033		00	897	\$2,190.03
00	012	0984	004		00	897	\$3,759.22
00	012	0935	004		00	897	\$3,377.80
00	049	1175	011		00	897	\$4,566.66
00	015	1300	018		00	897	\$2,710.41
00	015	1300	003	01	00	897	\$2,150.41
00	015	1311	002	01	00	897	\$2,581.82
00	056	1931	027	01	00	897	\$3,543.55
00	056	1927	021		00	897	\$2,200.29
00	015	1335	019		00	897	\$3,192.62
00	053	1612	024		00	897	\$1,848.62
00	013	1088	041		00	897	\$1,783.47
00	011	0838	024		00	897	\$4,213.13
00	021	0242	007		00	897	\$5,133.49
00	059	2335	013		00	897	\$3,777.52
00	072	0321	011		00	897	\$3,053.43
00	022	0326	001		00	897	\$2,483.13
00	035	2387	009		00	897	\$2,888.31
00	428	0041	078		00	897	\$1,716.81
00	077	C 1313	045		00	897	\$1,390.90
00	004	0087	034		00	897	\$3,398.18
00	004	0063	030		00	897	\$3,426.38
00	005	0456	015		00	897	\$900.77
00	074	1225	023		00	897	\$2,280.35
00	009	0718	026		00	897	\$3,790.43
00	416	0010	042		00	897	\$1,208.43

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	012	0944	042	00	897	\$3,695.17	
00	056	1939	015	00	897	\$3,970.40	
00	046	5441	014	00	897	\$1,469.64	
00	047	5498	017	00	897	\$4,297.55	
00	036	2476	013	02	00	897	\$3,143.47
00	032	2100	036	00	897	\$1,412.02	
00	005	0382	007	00	897	\$2,738.70	
00	061	2551	023	00	897	\$1,833.78	
00	080	0069	060	00	897	\$1,078.62	
00	048	5661	026	00	897	\$2,778.04	
00	021	0290	031	00	897	\$2,371.66	
00	037	2545	027	00	897	\$5,477.79	
00	056	1982	014	00	897	\$1,623.32	
00	041	4157	017	00	897	\$4,373.46	
00	005	0378	010	00	897	\$3,112.59	
00	012	0973	034	00	897	\$3,292.19	
00	003	0041	004	00	897	\$6,531.58	
00	003	0043	017	00	897	\$2,986.14	
00	016	1515	008	00	897	\$3,414.59	
00	016	1446	016	00	897	\$4,931.47	
00	015	1352	024	00	897	\$3,253.18	
00	014	1250	038	00	897	\$2,561.15	
00	075	0085	003	00	897	\$1,560.82	
00	015	1277	124	01	00	897	\$3,652.55
00	015	1281	003	00	897	\$2,395.10	
00	015	1361	015	00	897	\$2,885.96	
00	072	0332	003	00	897	\$2,351.98	
00	072	0343	006	00	897	\$1,727.38	
00	041	4146	002	00	897	\$3,495.38	
00	021	0236	003	00	897	\$3,808.32	
00	020	0217	003	00	897	\$4,682.37	
00	020	0178	011	00	897	\$5,122.26	
00	024	0531	028	00	897	\$2,711.60	
00	026	0789	005	00	897	\$3,757.50	
00	026	0778	021	00	897	\$3,489.64	
00	042	4266	004	01	00	897	\$4,741.72
00	042	4260	016	00	897	\$4,541.13	
00	058	2163	004	00	897	\$3,410.61	
00	059	2282	027	00	897	\$2,155.00	
00	044	4983	010	01	00	897	\$2,365.30

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	044	4961	021	01	00	897	\$2,788.65
00	044	4981	007	03	00	897	\$3,026.57
00	044	4979	013		00	897	\$5,937.66
00	045	5246	003	01	00	897	\$3,605.61
00	035	2387	010		00	897	\$3,618.95
00	040	3363	021		00	897	\$2,733.92
00	044	4975	016		00	897	\$4,451.98
00	045	5191	016	01	00	897	\$3,132.36
00	047	5583	014	01	00	897	\$4,359.53
00	054	1804	022		00	897	\$5,488.96
00	040	3326	036		00	897	\$10,493.75
00	040	3330	019		00	897	\$2,852.08
00	040	3389	005		00	897	\$3,284.54
00	038	3207	008		00	897	\$3,699.38
00	052	1575	002		00	897	\$2,472.35
00	035	2358	035	03	00	897	\$4,738.86
00	033	2128	002		00	897	\$4,757.38
00	033	2118	012		00	897	\$7,970.28
00	043	4574	013	01	00	897	\$4,844.11
00	032	2064	013		00	897	\$2,942.22
00	030	1980	091		00	897	\$2,320.94
00	027	0856	007		00	897	\$2,056.27
00	076	0274	038		00	897	\$6,975.86
00	029	A 1302	005		00	897	\$3,674.83
00	028	0906	020		00	897	\$3,276.77
00	036	2438	055		00	897	\$5,180.19
00	066	2732	006		00	897	\$1,843.37
00	036	2503	098		00	897	\$3,826.00
00	016	1425	053	02	00	897	\$3,443.77
00	037	2605	016	02	00	897	\$3,659.40
00	040	A 3457	078		00	897	\$4,317.79
00	039	3280	009	01	00	897	\$3,973.24
00	053	1628	020	01	00	897	\$6,081.62
00	006	0009	020		00	897	\$2,401.80
00	005	0377	012		00	897	\$3,626.78
00	004	0063	004		00	897	\$4,569.07
00	004	0067	011		00	897	\$2,303.29
00	005	0452	016		00	897	\$3,208.30
00	003	0005	022		00	897	\$2,849.74
00	008	0678	014		00	897	\$3,168.15

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	003	0013	007	00	897	\$2,758.38	
00	005	0386	011	00	897	\$4,572.08	
00	008	0677	007	00	897	\$4,618.04	
00	070	0182	050	00	897	\$1,730.82	
00	010	0770	001	00	897	\$7,336.83	
00	009	0726	003	00	897	\$3,140.15	
00	009	0726	006	00	897	\$3,616.29	
00	009	0726	007	00	897	\$4,165.15	
00	009	0715	044	00	897	\$3,719.11	
00	009	0708	003	00	897	\$10,018.54	
00	009	0718	010	00	897	\$3,919.12	
00	009	0738	027	00	897	\$4,186.86	
00	010	0794	037	00	897	\$3,609.75	
00	010	0793	010	00	897	\$3,086.43	
00	052	1580	007	00	897	\$2,761.74	
00	052	1579	009	00	897	\$2,595.98	
00	012	0947	026	00	897	\$4,937.67	
00	009	0709	014	01	00	897	\$4,769.19
00	009	0709	015	00	897	\$2,637.86	
00	009	0719	025	00	897	\$3,651.64	
00	010	0822	025	00	897	\$13,919.08	
00	009	0740	033	00	897	\$4,411.31	
00	009	0740	032	00	897	\$3,054.83	
00	009	0740	026	00	897	\$5,889.59	
00	013	1139	022	00	897	\$2,851.39	
00	013	1145	021	00	897	\$3,215.74	
00	013	1160	043	00	897	\$5,715.33	
00	014	1191	023	00	897	\$2,881.24	
00	054	1790	022	00	897	\$3,416.29	
00	015	1361	002	06	00	897	\$4,086.55
00	015	1378	012	00	897	\$2,591.64	
00	009	0735	016	00	897	\$4,417.22	
00	022	0332	007	00	897	\$3,642.93	
00	023	0390	024	00	897	\$3,238.50	
00	023	0390	009	01	00	897	\$3,765.01
00	021	0286	025	00	897	\$2,780.70	
00	426	0070	029	01	00	897	\$1,539.22
00	022	0340	037	00	897	\$3,969.47	
00	057	2081	024	00	897	\$2,977.88	
00	058	2141	009	00	897	\$2,729.75	

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	033	2189	013	02	00	897	\$3,385.12
00	033	2178	012		00	897	\$3,114.03
00	007	0596	014		00	897	\$2,418.88
00	041	3895	045		00	897	\$3,292.14
00	041	4052	020		00	897	\$2,716.24
00	041	4050	008		00	897	\$2,612.68
00	060	2466	029		00	897	\$2,568.87
00	022	0357	026	01	00	897	\$3,130.46
00	084	A 0124	005	02	00	897	\$2,372.18
00	046	5461	009	01	00	897	\$4,721.56
00	046	5443	023		00	897	\$3,560.07
00	043	4588	022		00	897	\$2,641.17
00	080	0076	025		00	897	\$3,298.23
00	043	4569	015		00	897	\$3,244.28
00	043	4553	004		00	897	\$4,145.00
00	027	0859	023	01	00	897	\$16,153.04
00	040	3374	010		00	897	\$3,483.38
00	039	3252	031	01	00	897	\$3,391.76
00	039	3245	056	02	00	897	\$4,175.24
00	035	2390	014		00	897	\$3,140.77
00	027	0877	024		00	897	\$3,857.89
00	073	0388	018		00	897	\$2,311.14
00	032	2105	017		00	897	\$4,311.11
00	032	2107	010		00	897	\$2,958.39
00	032	2057	014		00	897	\$13,194.79
00	080	0069	056		00	897	\$5,184.48
00	038	3189	056		00	897	\$5,537.09
00	038	3199	023		00	897	\$2,708.79
00	052	1584	035		00	897	\$3,189.53
00	053	1592	007		00	897	\$3,913.10
00	053	1592	014		00	897	\$2,597.88
00	038	3211	001	02	00	897	\$3,665.90
00	005	0477	027		00	897	\$9,585.01
00	044	4977	030	05	00	897	\$14,952.95
00	040	A 3414	024	01	00	897	\$4,203.01
00	037	2552	028		00	897	\$2,856.67
00	022	0326	036		00	897	\$2,205.35
00	080	A 0108	001		00	897	\$1,912.95
00	057	2081	025		00	897	\$3,516.82
00	020	0218	007		00	897	\$3,238.15

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	016	1427	027	01	00	897	\$4,879.87
00	053	1679	010		00	897	\$2,744.97
00	003	0043	005		00	897	\$7,206.67
00	015	1297	013		00	897	\$280.95
00	020	0211	010		00	897	\$300.00
00	044	4967	010	02	00	897	\$160.10
00	035	2386	004		00	897	\$682.88
00	038	3227	004		00	897	\$1,006.39
00	033	2142	002		00	897	\$143.95
00	027	0888	001		00	897	\$798.45
00	416	0230	015	02	00	897	\$251.79
00	019	0056	020	02	00	897	\$394.41
00	033	2189	009		00	897	\$587.77
00	005	0462	024		00	897	\$1,236.19
00	046	5443	001		00	897	\$1,343.95
00	047	5586	008		00	897	\$3,149.25
00	043	4552	001		00	897	\$184.67
00	007	0594	005	04	00	897	\$386.74
00	043	4589	024	01	00	897	\$536.44
00	034	2272	021		00	897	\$633.29
00	057	2088	012		00	897	\$3,329.97
00	042	4256	003		00	897	\$418.98
00	040	3407	063		00	897	\$1,739.05
00	014	1213	007		00	897	\$1,283.88
00	429	0064	044		00	897	\$1,047.00
00	046	5445	013		00	897	\$806.71
00	058	2142	017		00	897	\$2,198.84
00	052	1549	014		00	897	\$2,008.64
00	020	0188	011		00	897	\$1,472.84
00	019	0019	014		00	897	\$3,280.74
00	021	0242	009		00	897	\$2,552.00
00	041	4142	009		00	897	\$5,178.68
00	053	1669	001		00	897	\$1,236.87
00	006	0033	005		00	897	\$2,610.42
00	005	0407	013		00	897	\$1,166.88
00	038	3210	019		00	897	\$3,450.70
00	034	2282	004		00	897	\$1,299.98
00	040	A 3414	030	05	00	897	\$883.66
00	013	1184	009		00	897	\$2,497.43
00	049	1079	011	03	00	897	\$2,660.57

ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2015-2016 Property Tax Roll

APN Number				Legend Number		Tax Amount	
00	049	1079	011	02	00	897	\$2,172.47
00	049	1082	014		00	897	\$2,966.46
00	049	1174	002		00	897	\$1,941.47
00	013	1166	021		00	897	\$2,317.62
00	020	0189	011	01	00	897	\$4,419.99
00	021	0240	007		00	897	\$2,908.79
00	060	2393	017		00	897	\$2,017.48
00	038	3236	025		00	897	\$4,075.68
00	033	2136	024		00	897	\$2,593.97
00	004	0085	013		00	897	\$3,199.82
00	005	0407	021	01	00	897	\$2,193.25
00	009	0724	026		00	897	\$1,733.39
00	084D	D	1308		00	897	\$895.26
00	004	A	3422		00	897	\$3,235.02
00	038		3177		00	897	\$2,563.67
00	003		0079		00	897	\$2,355.18
00	432		0036	02	00	897	\$1,248.21
00	009		0693		00	897	\$2,045.79
00	042		4269		00	897	\$4,692.41
00	043		4567		00	897	\$4,708.72
00	003		0007		00	897	\$47,503.04
00	009		0719		00	897	\$2,040.35
00	052		1522		00	897	\$2,287.48
00	013		1094		00	897	\$5,113.65
00	039		3259		00	897	\$5,121.79
00	026		0798		00	897	\$2,426.83
00	040		3374	01	00	897	\$5,031.42
00	047		5570		00	897	\$3,317.48
00	046		5430		00	897	\$6,183.88
00	040		3325		00	897	\$2,210.82
00	006		0033		00	897	\$3,708.57
00	033		2135		00	897	\$3,601.58
00	037		2552		00	897	\$5,488.28
00	036		2502		00	897	\$5,053.77
00	009		0715		00	897	\$2,302.92
00	054		1795		00	897	\$3,418.76
00	056		1934		00	897	\$2,604.45
00	023		0416	02	00	897	\$2,597.74
00	044		4975	01	00	897	\$5,154.27
00	043		4607		00	897	\$3,379.72

**ATTACHMENT 1 – Delinquent EBMUD Charges for Transfer to the
Alameda County 2015-2016 Property Tax Roll**

APN Number				Legend Number		Tax Amount
00	035	2377	007	00	897	\$2,477.13
00	032	2109	020	00	897	\$4,232.19
00	032	2098	006	00	897	\$4,491.66
00	073	0390	024	00	897	\$3,202.68
00	032	2058	023	00	897	\$3,564.31
00	006	0013	046	00	897	\$2,542.30
00	043	4609	016	00	897	\$2,608.88
00	053	1626	024	00	897	\$3,632.70
Total						\$1,195,553.06

ATTACHMENT 2 – Delinquent EBMUD Charges for Transfer to the Contra Costa County 2015-2016 Property Tax Roll

	Parcel Number	Levy Code	Fund	Revenue	Levy Amount
A	550201007	AD	4001	9895	\$664.65
A	558170014	AD	4001	9895	\$136.80
A	5441610119	AD	4001	9895	\$1,426.25
A	1782620163	AD	4001	9895	\$786.78
A	534071004	AD	4001	9895	\$998.80
A	435035035	AD	4001	9895	\$411.35
A	5100350015	AD	4001	9895	\$2,014.95
A	509120005	AD	4001	9895	\$1,798.89
A	5383410098	AD	4001	9895	\$737.59
A	413330024	AD	4001	9895	\$1,594.48
A	513164006	AD	4001	9895	\$1,560.27
A	5501510290	AD	4001	9895	\$3,892.68
A	514110010	AD	4001	9895	\$5,115.09
A	5053510185	AD	4001	9895	\$354.35
A	510031002	AD	4001	9895	\$1,382.23
A	354124007	AD	4001	9895	\$942.09
A	4180630164	AD	4001	9895	\$192.84
A	544321012	AD	4001	9895	\$937.73
A	430050001	AD	4001	9895	\$109.97
A	5141200252	AD	4001	9895	\$834.42
A	507130001	AD	4001	9895	\$461.19
A	549192020	AD	4001	9895	\$256.77
A	4111900272	AD	4001	9895	\$195.10
A	529160002	AD	4001	9895	\$570.01
A	5290800183	AD	4001	9895	\$289.41
A	527041020	AD	4001	9895	\$4,050.42
A	513074020	AD	4001	9895	\$196.39
A	4020700144	AD	4001	9895	\$158.11
A	410275015	AD	4001	9895	\$838.29
A	5343140207	AD	4001	9895	\$683.95
A	534314028	AD	4001	9895	\$253.62
A	540380022	AD	4001	9895	\$854.17
A	413012028	AD	4001	9895	\$993.19
A	4030800215	AD	4001	9895	\$543.03
A	5130750010	AD	4001	9895	\$294.23
A	3551210119	AD	4001	9895	\$828.69
A	5442010186	AD	4001	9895	\$1,030.73
A	529230027	AD	4001	9895	\$936.39
A	4011730092	AD	4001	9895	\$501.61
A	4311310108	AD	4001	9895	\$1,521.04
A	5260400030	AD	4001	9895	\$2,172.74
A	413012031	AD	4001	9895	\$722.86
A	4092620105	AD	4001	9895	\$3,460.22
A	5094000097	AD	4001	9895	\$1,956.63
A	4350900082	AD	4001	9895	\$4,423.89
A	5380410117	AD	4001	9895	\$1,429.65
A	2410300301	AD	4001	9895	\$2,368.97
A	5383500401	AD	4001	9895	\$1,914.55

ATTACHMENT 2 – Delinquent EBMUD Charges for Transfer to the Contra Costa County 2015-2016 Property Tax Roll

	Parcel Number	Levy Code	Fund	Revenue	Levy Amount
A	5402600307	AD	4001	9895	\$4,626.72
A	540350029	AD	4001	9895	\$2,158.07
A	538310010	AD	4001	9895	\$1,369.03
A	509370012	AD	4001	9895	\$3,131.57
A	518360026	AD	4001	9895	\$1,140.06
A	514130011	AD	4001	9895	\$1,773.78
A	534302011	AD	4001	9895	\$2,109.40
A	534181003	AD	4001	9895	\$1,973.21
A	5342020087	AD	4001	9895	\$1,959.86
A	561171008	AD	4001	9895	\$2,740.96
A	538050030	AD	4001	9895	\$2,002.30
A	5130840092	AD	4001	9895	\$2,056.71
A	540190016	AD	4001	9895	\$2,260.28
A	410283024	AD	4001	9895	\$4,059.16
Total					\$93,159.17

RESOLUTION NO. _____

APPROVING TRANSFER OF UNPAID DELINQUENT CHARGES TO ALAMEDA AND
CONTRA COSTA COUNTIES' 2015-2016 PROPERTY TAX ROLLS

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, the District approved the Program for Delinquent Charge Collection Through Liens and Property Tax Bills for Multi-Family Accounts (the "Program") effective January 1, 2011, under authority of Senate Bill (S.B.) 1035 (Hancock 2010) enacted to amend Municipal Utility District (MUD) Act Section 12811.1; and

WHEREAS, the Program is intended to collect multi-family residential (MFR) delinquent fees, tolls, rates, rentals, or other charges for services ("delinquent charges") by lien filings and annual transfers of delinquent charges to the property tax rolls in lieu of service termination; and

WHEREAS, on June 23, 2015, the District mailed to MFR customers of record with delinquent charges and corresponding property owners notices of intent to transfer delinquent charges from unpaid liens to the property tax bills; and

WHEREAS, on July 14, 2015, and again on July 28, 2015, the General Manager filed with the Board the Report and Recommendation of the General Manager to Transfer Unpaid Delinquent Charges to the 2015-2016 Property Tax Rolls (the "Report"), copies of which are on file with the Secretary of the Board and available for public inspection and review; and

WHEREAS, a public hearing, noticed in the manner and for the time required by law, was conducted by the Board of Directors on July 28, 2015, at which time all interested persons were afforded an opportunity to be heard on matters pertaining to the transfer of delinquent charges from unpaid liens to the property tax rolls, as well as to the Report; and

WHEREAS, all comments, objections, and protests to the Report have been given full opportunity to be heard by the Board, and the Board has fully considered the Report;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.
2. Objections Overruled and Report Approved. All objections and protests to the Report and Recommendation of the General Manager to Transfer Delinquent Charges to the 2015-2016 Property Tax Rolls are hereby overruled and denied and said Report is hereby accepted and approved as final; provided however that the General Manager or his designee is hereby authorized to revise the Report prior to submitting it to the Alameda County and Contra Costa County Auditors in order to reflect (i) the payment of delinquent charges, in whole or in part, for

any of the parcels identified in the Report, or (ii) any other downward adjustments applicable to any of the parcels identified in the Report for any other appropriate reason such as correction of error.

3. Filing of the Report with the Counties. On or before the 10th day of August 2015, the General Manager or his designee is hereby authorized and directed to file a copy of the Report with the Alameda County and Contra Costa Auditors, indicating that the Report has been adopted by the Board of Directors in order to request that the delinquent charges rendered by the District be collected on the property tax bills for the taxable parcels in the District identified in the Report and such delinquent charges, together with any interest and penalties thereon, shall be collected for the District at the same time and in the same manner and by the same persons as, together with and not separately from, general taxes, and shall be delinquent at the same time and thereafter be subject to the same delinquency penalties to be levied on and collected from the owners of said parcels.

ADOPTED this 28th day of July, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

W:\\410.01 Resolutions\\Rates and Charges\\Transfer Delinquent Charges to Tax Rolls 2015-FINAL.docx

ITEM #15

LEGISLATIVE UPDATE

**PRESENTATION FROM
STATE WATER RESOURCES
CONTROL BOARD**

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 23, 2015

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Legislative Report No. 07-15

The following issues are being referred to the Board of Directors for action, as appropriate.

RECOMMENDED ACTION

Receive information on AB 142 (Bigelow) Wild and Scenic Rivers, Mokelumne River; SB 88 (Committee on Budget and Fiscal Review) Water; and H.R. 2898 (Valadao) Western Water and American Food Security Act of 2015; and approve a position on the following bill: Support H.R. 2983 (Huffman) Drought Recovery and Resilience Act of 2015.

STATE LEGISLATION

RECOMMENDED POSITION

**AB 142
(Bigelow)**

**WILD AND SCENIC RIVERS:
MOKELUMNE RIVER**

INFORMATION

AB 142 (Bigelow) would require the Secretary of the Natural Resources Agency (Secretary) to study and prepare a report on the suitability of adding a specified stretch of the Mokelumne River to the California Wild and Scenic Rivers system. AB 142 was amended July 16th to reflect the amendments agreed to by key stakeholders, which include Amador Water Agency, Foothill Conservancy, Friends of the River, and EBMUD. With these amendments, AB 142 passed out of the Senate Committee on Natural Resources and Water on a unanimous vote, with the support of stakeholders and no opposition. The amendments are summarized below.

1. Language was added to clarify that state funding may be sought for specified feasibility studies and assessments included within the implementation plan of the Mokelumne Watershed Interregional Sustainability Evaluation (MoKEWISE), Final Report dated June 12, 2015. These studies are: 7a - PG&E Storage Recovery; 7b - Raise Lower Bear Reservoir Feasibility Update and Preliminary Engineering; 7d - Re-operation of Existing Storage; and 7f - Blue and Twin Lakes Dams Reliability and Replacement Assessment.
2. Language was added to require the inclusion of the above-specified studies in the items to be considered by the Secretary as part of the study. Amendments #1 and #2 were added to clarify that the progress of these MoKEWISE studies and assessments would not be impeded by AB 142's study and interim funding prohibitions.

3. The report deadline was extended by one year, from December 31, 2016 to December 31, 2017 to allow adequate time for the Secretary to complete the study.
4. A sunset of December 31, 2021 was added to the interim protection provisions. This language was added to clarify that interim protections are not intended to be permanent in the absence of legislative action to add any recommended stretches to the system.
5. An upper limit was added to the study area - "from 0.50 miles downstream of the Salt Springs Dam" to be consistent with the upper limit used in SB 1199 (Hancock).

In addition to these substantive amendments, several technical amendments were also made. AB 142 will next be heard by the Assembly Committee on Appropriations in mid-August. The current support and opposition list for AB 142 is as shown below.

Support

Amador City
Amador County Board of Supervisors
Amador County Business Council
Amador County Republican Central Committee
Amador Water Agency
American Whitewater
Association of California Water Agencies
CA Wildlife Foundation/CA Oaks
Calaveras Amador Mokelumne River Authority
Calaveras Community Action Project
Calaveras County Board Of Supervisors
Calaveras County Republican Party
Calaveras County Taxpayers Association
Calaveras County Water District
Calaveras Public Utility District
California League of Conservation Voters
California Outdoors
California Sportfishing Protection Alliance
California Water Impact Network
Center for Sierra Nevada Conservation
Central Sierra Mining
City of Ione
City of Jackson
City of Plymouth
City of Sutter Creek
Clean Water Action
East Bay Municipal Utility District
El Dorado Irrigation District
Environmental Water Caucus
First Mace Water Association

Foothill Conservancy
Friends of the River
Jackson Valley Irrigation District
Mountain Counties Water Resources Association
My Valley Springs
Natural heritage Institute
North Coast Rivers Alliance
Northern California Council of the International Federation of Fly Fishers
O.A.R.S. Companies, Inc.
Pine Grove CSD
Planning and Conservation League
Rabb Park CSD
Sierra Business Council
South Yuba River Citizens League
Terre Rouge & Easton Wines
One individual

Opposition

None Received

SB 88

WATER

INFORMATION

**(Committee
On Budget and
Fiscal Review)**

As discussed at the June 23rd Board meeting, SB 88 is one of the budget trailer bills that was enacted in June. SB 88 contains numerous provisions including those provisions from Draft Budget Trailer Bill 825 (TB 825) regarding water system consolidations and extensions of service. EBMUD adopted an “oppose” position on TB 825 and sought amendments to clarify that the authority of the State Water Resources Control Board (SWRCB) to mandate extensions of service and consolidations are limited to disadvantaged communities.

Subsequent to the enactment of SB 88, the SWRCB sent a letter to Senator Steve Glazer, in response to his request, that provides assurance that the SWRCB “would not use its authority pursuant to Chapter 27, Statutes of 2015 (SB 88) to require the East Bay Municipal Utility District (EBMUD) to consolidate with a small group of landowners in the unincorporated area of San Ramon...” The letter further states that “if the community in the unincorporated area of San Ramon is not a disadvantaged community, the State Water Board would not have the authority to require EBMUD to consolidate with it.” A copy of the letter is attached.

FEDERAL LEGISLATION

**RECOMMENDED
POSITION**

**H.R. 2898
(Valadao)**

**WESTERN WATER AND AMERICAN
FOOD SECURITY ACT OF 2015**

INFORMATION

The appropriate federal response to the ongoing drought continues to be a topic of discussion in Congress, as it has been over the past few years. EBMUD has consistently worked with its congressional delegation and relevant stakeholders to support the development of a balanced and reasonable approach to address challenges created by the ongoing drought that provides federal drought funding assistance while appropriately preserving environmental protections. However, efforts to pass federal drought legislation have so far been unsuccessful.

H.R. 2898 (Valadao) is the House Republicans' most recent approach to the drought and would amend the Central Valley Project Improvement Act (CVPIA) in an effort to improve water supply reliability for some Central Valley Project (CVP) contractors, particularly agricultural contractors. H.R. 2898 would accomplish this by bypassing established environmental protections and setting firm regulatory limits in statute, leaving the Department of the Interior little discretion in its management of the CVP. H.R. 2898 seeks to regulate via statute by setting forth specific operating criteria for the CVP and setting baseline water deliveries for certain contractors that would be required to be met regardless of the water supplies available.

H.R. 2898 was passed by the House earlier in July. The White House has issued a "veto threat" in the form of a statement of administration policy that, in part, states "H.R. 2898 dictates operational decisions and imposes a new legal standard which could actually limit water supplies by creating new and confusing conflicts with existing laws, adding an unnecessary layer of complexity to Federal and State cooperation." A competing measure, H.R. 2983, has also been introduced in the House and has not yet been considered. H.R. 2983 takes a significantly different approach than H.R. 2898 and is discussed below.

On the Senate side, Senator Feinstein is expected to introduce a drought relief bill in the near future, and Senate Committee on Energy and Natural Resources Chairwoman Lisa Murkowski (R-AK) has publicly stated that she intends to address California's needs within a western wide drought relief bill, though the timing of any Senate bill is has not been specified at this time. Though H.R. 2898 is expected to be included in the Senate discussions on a final drought measure, it is clear that the current version of the bill lacks sufficient support to advance. Accordingly, a position on H.R. 2898 is not recommended at this time. An overview of the key aspects of H.R. 2898 is provided below.

Changes to environmental standards

In an effort to increase water provided to some users by reducing the water available to the environment, H.R. 2898 would change existing environmental standards, including the CVPIA, the Endangered Species Act (ESA), and existing biological opinions that have recently been upheld by the courts.

Reduction in environmental flows

H.R. 2898 would reduce the 800,000 acre-feet of water dedicated annually to environmental flows by 25 percent in most years. Specifically, H.R. 2898 would direct the Secretary of the Department of the Interior (Secretary) to develop plans by 2018 for additional CVP yield to replace the 800,000 acre-feet of water dedicated annually to environmental flows. If CVP yield has not increased by 800,000 acre feet within five years of the enactment of H.R. 2898, the amount of water dedicated to the environment would be decreased by 25 percent (200,000 acre-feet) in most years. This would constitute a potential redirection of responsibility to provide environmental flows from the CVP to others, such as the owners and/or beneficiaries of tributary water supply projects, to meet environmental objectives for the Delta.

Expedited transfers

H.R. 2898 would direct the United States Bureau of Reclamation (USBR) to facilitate and expedite transfers of CVP water through accelerated approvals. Expediting water transfers could be beneficial to EBMUD's efforts to obtain supplemental water supplies via transfers. However, the language in H.R. 2898 is too narrow and should be expanded to include transfers to CVP contractors, rather than being limited to transfers of CVP water.

Water rights/assurances/rescheduling

H.R. 2898 would require CVP operations to adhere to state water rights law governing water rights priorities. This is consistent with existing law and clarifies that water rights priorities would not be affected. However, the proposed language offers no protections for water *supplies*, which are not the same as water rights. For example, in the instance of a redirection of responsibility to make up for the CVP's environmental flow obligations, other water rights holders, such as EBMUD, could be asked to provide supplies even though their underlying water rights would be unaffected.

H.R. 2898 would provide assurances of specified CVP water deliveries to Sacramento River agricultural contractors in a manner that could adversely impact other CVP contractors. This would essentially guarantee deliveries to these CVP contractors and would reduce the flexibility of USBR to manage the CVP system and could result in reduced deliveries to other contractors in some years.

H.R. 2898 would also provide Sacramento River agricultural contractors the opportunity to reschedule water deliveries while other CVP contractors would not be provided the same opportunity. EBMUD has consistently advocated for the development of system-wide rescheduling guidelines in order to increase system flexibility.

Fish

H.R. 2898 would require the Delta Cross Channel Gates to remain open to the maximum extent possible. This is contrary to EBMUD's past efforts to close the gates during certain times to assist with EBMUD's efforts to enhance the Mokelumne River salmon fishery by reducing straying of Mokelumne River salmon during migration.

H.R. 2898 would also prohibit fishery agencies (United States Fish and Wildlife Service and National Marine Fisheries Service) from distinguishing between naturally spawned and hatchery spawned species in making listing decisions and other determinations under the ESA. This would likely result in less protection for anadromous fish and could curtail EBMUD's efforts to sustain and enhance the viability of naturally spawning salmonids in the lower Mokelumne River.

Other provisions

H.R. 2898 would also direct the Secretary to cease implementation of the San Joaquin River Restoration Settlement Agreement.

Overall, H.R. 2898 is not consistent with the principle that federal measures to provide drought assistance should preserve environmental protections. EBMUD has consistently advocated that any federal drought measure should adhere to the following principles:

- Ensure that management of federal water supplies is conducted in a manner that leverages opportunities for any CVP contractor to reschedule deliveries to address drought impacts and that if opportunities to reschedule deliveries are provided they should extend to all CVP contractors, not just a select group.
- Protect existing regional water supply programs and projects from direct or indirect impacts. EBMUD's \$500 million investment in the Freeport Regional Water Facility must be protected by safeguarding EBMUD's unique CVP contract and access to CVP water which is specifically intended to provide drought supplies for EBMUD's 1.3 million customers. Policies that lower the Municipal and Industrial (M&I) allocation priority or that provide new priority to "area of origin" contractors (Term 14 or otherwise) could significantly undermine the value of the EBMUD's ratepayers' investment in the Freeport Regional Water Facility.
- Provide for expedited water transfers that enhance regional and inter-regional collaboration to reduce water supply disruptions and support collaboration among water users.
- Establish administrative approaches to reviewing natural resource impacts in a timely and predictable manner to bring greater certainty to the development and implementation of critical water supply projects while preserving the integrity, goals and objectives of the ESA. The ESA should not be bypassed or suspended. To do so could harm the environment and have the practical impact of flipping allocation priorities as California struggles to meet its environmental requirements.

Multiple measures similar to H.R. 2898 have been introduced in prior congressional sessions, though none have advanced out of Congress. Most recently, in 2014, Representative Valadao sponsored both H.R. 5781 and H.R. 3964. EBMUD did not take a position on either bill. In 2012, EBMUD's Board adopted an "oppose" position on another similar measure, H.R. 1837 (Nunes). H.R. 1837 failed to advance out of Congress.

**H.R. 2983
(Huffman)**

**DROUGHT RECOVERY AND
RESILIENCE ACT OF 2015**

SUPPORT

H.R. 2983 (Huffman) would enact the Drought Recovery and Resilience Act of 2015 (Act) and is co-sponsored by Representatives DeSaulnier, Garamendi, McNerney and Swalwell. The Act is intended to respond to the drought in California and other western states by providing both short- and long-term solutions to stretch water supplies and build new clean water infrastructure without undermining environmental protections, preempting state laws, or redirecting impacts from one drought-stricken area to another. The Act would primarily do two things: (1) provide emergency funding, and (2) authorize new water infrastructure programs. The Act includes additional provisions related to drought response planning, water management, and impacts to wild fisheries.

Emergency Funding

The Act would provide over \$1 billion in emergency funding to address water supply for public health and safety, investments in water recycling, reuse, and reclamation, and meeting the emergency needs of drought-impacted communities. Funding assistance would include \$300 million for United States Bureau of Reclamation (USBR) projects, including \$100 million for Title XVI and \$100 million for WaterSmart, and \$500 million for the U.S. Environmental Protection Agency (EPA) for the Clean Water and Drinking Water State Revolving Funds with priority for drought response projects.

New Water Infrastructure Programs

The Act would establish a new EPA grant program to supplement existing Title XVI funding and support water recycling projects and would appropriate \$500 million annually for each fiscal year 2016 through 2020 for this new program. The Act would also expand the financing mechanisms available to the USBR, including establishing a new Reclamation Infrastructure Finance and Innovation Act (RIFIA). Funding under RIFIA would include the following:

- \$500 million total, \$100 million per fiscal year from 2016 through 2020, for a new loan and loan guarantee program, similar to the Water Infrastructure and Finance Innovation Act (WIFIA) included in the Water Resources and Reform Development Act of 2014, to offer long-term, low-cost financing for eligible water projects, including projects for water recycling, enhanced energy efficiency, and desalination.
- \$700 million total for USBR to partner with state and local entities for integrated regional water management, reclamation, and water recycling projects that do not have existing federal funding authorizations.

Other Provisions

The Act includes provisions intended to assist with drought response planning, water management and impacts to wild fisheries and would require the development of a water source protection program within the United States Forest Service to protect and restore watersheds, provide for reservoir operation improvement by allowing consideration of whether using improved weather forecasts and run-off forecasting would improve project benefits, provide for

improved oversight of state injection wells, require the National Resources Conservation Service to provide water supply planning assistance to state water agencies requesting assistance, and direct the United States Fish and Wildlife Service to prepare a salmon drought plan to address impacts of drought on salmon population.

The Act is intended to provide assistance to mitigate drought impacts while appropriately preserving environmental protections. In addition, the Act could provide potential funding opportunities for EBMUD projects, such as projects that assist with water supply reliability, including water recycling, conservation, and desalination.

Support of the H.R. 2983 is consistent with EBMUD's support for multiple federal measures in 2014 that would have provided federal drought funding assistance, namely H.R. 4239 (Huffman), S. 2016 (Feinstein, Boxer) and S. 2016's companion measure, H.R. 4039 (Costa), as well as EBMUD's 2015 federal initiatives to seek federal funding opportunities. None of these measures advanced out of Congress.

ARC:MD:JF

Attachment

AMENDED IN SENATE JULY 16, 2015
AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 142

Introduced by Assembly Member Bigelow
(Principal coauthor: Senator Berryhill)

January 12, 2015

An act to amend Section 5093.56 of, and to add Sections 5093.548 and 5093.549 to, the Public Resources Code, relating to wild and scenic rivers.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Bigelow. Wild and scenic rivers: Mokelumne River.

(1) Existing law, the California Wild and Scenic Rivers Act, provides for a system of classification of those rivers or segments of rivers in the state that are designated as wild, scenic, or recreational rivers, for purposes of preserving the highest and most beneficial use of those rivers. The act requires the Secretary of the Natural Resources Agency to study and submit to the Governor and the Legislature a report that analyzes the suitability or unsuitability for addition to the system of rivers or segments of rivers that are designated by the Legislature as potential additions to the system, and requires that each report contain specified information and recommendations with respect to the proposed designation.

This bill would require the secretary, in a report analyzing the suitability or unsuitability of a proposed designation of the Mokelumne River, its tributaries, or portions thereof as additions to the system, to

consider the potential effects of the proposed designation on future water requirements, as specified, and the effects of climate change on river values and *current and projected water supply, supplies*, and to consider other factors. The bill would include any portion of the Mokelumne River designated for potential addition within certain protections afforded to wild and scenic rivers ~~during until the completion of the study period and the implementation of any recommendation to add the portion of the Mokelumne River to the system.~~ *system, or December 31, 2021, whichever occurs first.*

The bill would also designate a specified portion of the Mokelumne River, or any ~~segments~~ *segment* of that portion, for potential addition to the system. The bill would require the secretary to submit a report pursuant to the above-described requirements to the Legislature and Governor no later than December 31, ~~2016~~ *2017*, and would require the report to include a clear recommendation ~~whether the Legislature should enact legislation to add the portion of the Mokelumne River, or any segments of that portion, to the system.~~ *on the suitability or nonsuitability for addition to the system of the designated portion of the Mokelumne River or any segment of that portion.*

(2) The bill would declare that due to the unique geographical features of the Mokelumne River and its tributaries, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature that the entities*
- 2 *responsible for the Mokelumne Watershed Interregional*
- 3 *Sustainability Evaluation Program may seek state funding for*
- 4 *which the feasibility studies and assessments described in*
- 5 *paragraph (3) of subdivision (a) of Section 5093.548 of the Public*
- 6 *Resources Code are eligible.*
- 7 ~~SECTION 1.~~
- 8 SEC. 2. Section 5093.548 is added to the Public Resources
- 9 Code, to read:
- 10 5093.548. (a) Notwithstanding Section 5093.547, prior to the
- 11 designation of the Mokelumne River, its tributaries, or portions
- 12 thereof as additions to the system, the secretary shall study and

1 submit to the Governor and the Legislature a report that analyzes
2 the suitability or nonsuitability of the proposed designation. The
3 suitability analysis contained in the report shall consider all of the
4 following:

5 (1) The potential effects of the proposed designation on the
6 ability of public agencies and utilities within the Mokelumne River
7 watershed to meet current and projected future water requirements
8 through the development of new and more reliable water supplies
9 from the Mokelumne River. *River and its tributaries.* When
10 considering projected future water requirements, the secretary shall
11 only consider feasible projects to meet foreseeable demands.

12 (2) Any effects of climate change on river values *described in*
13 *Section 5093.50 and current and projected water supply supplies.*

14 (3) *The following feasibility studies and assessments included*
15 *within the implementation plan of the Mokelumne Watershed*
16 *Interregional Sustainability Evaluation, Final Report dated June*
17 *12, 2015: 7a, 7b, 7d, and 7f. The inclusion of these studies and*
18 *assessments in this subdivision shall not be construed as an*
19 *exemption from wild and scenic designation.*

20 ~~(3)~~

21 (4) The instances when the secretary has determined pursuant
22 to Section 5093.55 that a water diversion facility may be
23 constructed on a river or segment of a river that is part of the
24 system.

25 ~~(4)~~

26 (5) The instances when the State Water Resources Control Board
27 has approved an application to appropriate water from a river or
28 a segment of a river that is part of the system and what restrictions,
29 if any, were placed on the appropriation of water as a result of the
30 river or segment of a river's inclusion in the system.

31 (b) The report shall also include the information required in
32 subdivision (b) of Section 5093.547 and the secretary's
33 recommendations and proposals with respect to the proposed
34 designation.

35 (c) The report required for the portion of the Mokelumne River
36 designated for potential addition to the system pursuant to Section
37 5093.549 shall be submitted to the Legislature and Governor no
38 later than December 31, ~~2016,~~ 2017, and shall include a clear
39 recommendation ~~whether the Legislature should enact legislation~~
40 ~~to add the portion or any segment of that portion of the Mokelumne~~

1 ~~River to the system. on the suitability or nonsuitability for addition~~
2 ~~to the system of the designated portion of the Mokelumne River or~~
3 ~~any segment of that portion.~~

4 (d) The study undertaken by the secretary pursuant to
5 subdivision (a) shall provide for public input from a broad range
6 of stakeholders.

7 (e) A report required to be submitted pursuant to subdivision
8 (a) shall be submitted in compliance with Section 9795 of the
9 Government Code.

10 (f) ~~During~~ *Until the completion of the study period and the*
11 *implementation of any recommendation to add segments to the*
12 *system, or December 31, 2021, whichever occurs first, no dam,*
13 *reservoir, diversion, or other water impoundment facility may be*
14 *constructed on any segment designated for study by the secretary*
15 *as a potential addition to the system unless the secretary determines*
16 *that the facility is needed to supply domestic water to the residents*
17 *of the county or counties through which the river and segment*
18 *flows and the secretary determines that the facility will not*
19 *adversely affect the free-flowing condition and natural character*
20 *of the river and segment. This subdivision shall not apply to, and*
21 *shall not in any way affect, Amador Water Agency's water rights*
22 *application 5647X03 pending before the State Water Resources*
23 *Control Board.*

24 ~~SEC. 2.~~

25 *SEC. 3.* Section 5093.549 is added to the Public Resources
26 Code, to read:

27 5093.549. The portion of the Mokelumne River, or any segment
28 of that portion, located ~~upstream~~ *from one-half mile downstream*
29 *of the Salt Springs 97-066 Dam to the upper extent of the Pardee*
30 *Reservoir at the elevation of not less than 580 feet above mean*
31 *sea level is hereby designated for potential addition to the system.*

32 ~~SEC. 3.~~

33 *SEC. 4.* Section 5093.56 of the Public Resources Code is
34 amended to read:

35 5093.56. No department or agency of the state may assist or
36 cooperate, whether by loan, grant, license, or otherwise, with any
37 department or agency of the federal, state, or local government,
38 in the planning or construction of a dam, reservoir, diversion, or
39 other water impoundment facility that could have an adverse effect

1 on the free-flowing condition and natural character of either of the
2 following:

3 (a) The rivers and segments thereof designated in Section
4 5093.54 as included in the system.

5 (b) The portion of the Mokelumne River designated in Section
6 5093.549 for study by the secretary as a potential addition to the
7 system until after the study period and implementation of any
8 recommendations have been ~~completed~~, *completed, or December*
9 *31, 2021, whichever occurs first*. This subdivision shall not apply
10 to, and shall not in any way affect, Amador Water Agency's water
11 rights application 5647X03 pending before the State Water
12 Resources Control Board.

13 ~~SEC. 4.~~

14 *SEC. 5.* Due to the unique geographical features of the
15 Mokelumne River and its tributaries, the Legislature hereby finds
16 and declares that *a special law is necessary and a general law*
17 *cannot be made applicable within the measuring meaning of*
18 *Section 16 of Article IV of the California Constitution. Therefore,*
19 ~~the special legislation contained in Section 1 of this act is~~
20 ~~necessarily applicable to the Mokelumne River and its tributaries.~~



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

The Honorable Steve Glazer
California State Senate
State Capitol, Room 4082
Sacramento, CA 95814

Dear Senator Glazer:

This letter is in response to your request for a letter providing assurance that the State Water Resources Control Board (State Water Board) would not use its authority pursuant to Chapter 27, Statutes of 2015 (SB 88) to require the East Bay Municipal Utilities District (EBMUD) to consolidate with a small group of landowners in the unincorporated area of San Ramon, which your staff have indicated is not a disadvantaged community. My understanding is that EBMUD has expressed concerns that a provision in Health and Safety Code section 116682, which is added by the bill, and which specifies that "The State Water Resources Control Board may also order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation" is ambiguous as to whether it is limited to disadvantaged communities.

The State Water Board's interpretation of Health and Safety Code section 116682 is that its authority to require an extension of service is limited to areas where a public water system or a state small water system, within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. Accordingly, if the community in the unincorporated area of San Ramon is not a disadvantaged community, the State Water Board would not have any authority to require EBMUD to consolidate with it.

If you would like to discuss this matter further, please feel free to contact me at (916) 341-5615, or Legislative Director Rob Egel at (916) 341-5255.

Sincerely,


Thomas Howard
Executive Director

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, Ca 95812-0100 | www.waterboards.ca.gov

bcc: Ms. Martha Guzman-Aceves
Chief Deputy Legislative Secretary
Governor's Office
State Capitol
Sacramento, CA 95814

Mr. Gordon Burns
Undersecretary
California Environmental Protection Agency
1001 I Street, 25th Floor
Sacramento CA 95814

Board Members:
Ms. Frances Spivy-Weber, Vice Chair
Ms. Tam M. Doduc
Mr. Steven Moore
Ms. DeeDee D'Adamo

114TH CONGRESS
1ST SESSION

H. R. 2898

IN THE SENATE OF THE UNITED STATES

JULY 21, 2015

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To provide drought relief in the State of California, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Western Water and American Food Security Act of
 4 2015”.

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

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.

**TITLE I—ADJUSTING DELTA SMELT MANAGEMENT BASED ON
 INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE**

Sec. 101. Definitions.
 Sec. 102. Revise incidental take level calculation for delta smelt to reflect new
 science.
 Sec. 103. Factoring increased real-time monitoring and updated science into
 Delta smelt management.

**TITLE II—ENSURING SALMONID MANAGEMENT IS RESPONSIVE
 TO NEW SCIENCE**

Sec. 201. Definitions.
 Sec. 202. Process for ensuring salmonid management is responsive to new
 science.
 Sec. 203. Non-Federal program to protect native anadromous fish in the
 Stanislaus River.
 Sec. 204. Pilot projects to implement CALFED invasive species program.

TITLE III—OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

Sec. 301. Definitions.
 Sec. 302. Operational flexibility in times of drought.
 Sec. 303. Operation of cross-channel gates.
 Sec. 304. Flexibility for export/inflow ratio.
 Sec. 305. Emergency environmental reviews.
 Sec. 306. Increased flexibility for regular project operations.
 Sec. 307. Temporary operational flexibility for first few storms of the water
 year.
 Sec. 308. Expediting water transfers.
 Sec. 309. Additional emergency consultation.
 Sec. 310. Additional storage at New Melones.
 Sec. 311. Regarding the operation of Folsom Reservoir.
 Sec. 312. Applicants.
 Sec. 313. San Joaquin River settlement.
 Sec. 314. Program for water rescheduling.

TITLE IV—CALFED STORAGE FEASIBILITY STUDIES

Sec. 401. Studies.

- Sec. 402. Temperance Flat.
- Sec. 403. CALFED storage accountability.
- Sec. 404. Water storage project construction.

TITLE V—WATER RIGHTS PROTECTIONS

- Sec. 501. Offset for State Water Project.
- Sec. 502. Area of origin protections.
- Sec. 503. No redirected adverse impacts.
- Sec. 504. Allocations for Sacramento Valley contractors.
- Sec. 505. Effect on existing obligations.

TITLE VI—MISCELLANEOUS

- Sec. 601. Authorized service area.
- Sec. 602. Oversight board for Restoration Fund.
- Sec. 603. Water supply accounting.
- Sec. 604. Implementation of water replacement plan.
- Sec. 605. Natural and artificially spawned species.
- Sec. 606. Transfer the New Melones Unit, Central Valley Project to interested providers.
- Sec. 607. Basin studies.
- Sec. 608. Operations of the Trinity River Division.
- Sec. 609. Amendment to purposes.
- Sec. 610. Amendment to definition.
- Sec. 611. Report on results of water usage.
- Sec. 612. Klamath project consultation applicants.

TITLE VII—WATER SUPPLY PERMITTING ACT

- Sec. 701. Short title.
- Sec. 702. Definitions.
- Sec. 703. Establishment of lead agency and cooperating agencies.
- Sec. 704. Bureau responsibilities.
- Sec. 705. Cooperating agency responsibilities.
- Sec. 706. Funding to process permits.

TITLE VIII—BUREAU OF RECLAMATION PROJECT STREAMLINING

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Acceleration of studies.
- Sec. 804. Expedited completion of reports.
- Sec. 805. Project acceleration.
- Sec. 806. Annual report to Congress.

TITLE IX—ACCELERATED REVENUE, REPAYMENT, AND SURFACE WATER STORAGE ENHANCEMENT

- Sec. 901. Short title.
- Sec. 902. Prepayment of certain repayment contracts between the United States and contractors of federally developed water supplies.

TITLE X—SAFETY OF DAMS

- Sec. 1001. Authorization of additional project benefits.

TITLE XI—WATER RIGHTS PROTECTION

Sec. 1101. Short title.
Sec. 1102. Definition of water right.
Sec. 1103. Treatment of water rights.
Sec. 1104. Recognition of State authority.
Sec. 1105. Effect of title.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) As established in the Proclamation of a
4 State of Emergency issued by the Governor of the
5 State on January 17, 2014, the State is experi-
6 encing record dry conditions.

7 (2) Extremely dry conditions have persisted in
8 the State since 2012, and the drought conditions are
9 likely to persist into the future.

10 (3) The water supplies of the State are at
11 record-low levels, as indicated by the fact that all
12 major Central Valley Project reservoir levels were at
13 20–35 percent of capacity as of September 25, 2014.

14 (4) The lack of precipitation has been a signifi-
15 cant contributing factor to the 6,091 fires experi-
16 enced in the State as of September 15, 2014, and
17 which covered nearly 400,000 acres.

18 (5) According to a study released by the Uni-
19 versity of California, Davis in July 2014, the
20 drought has led to the fallowing of 428,000 acres of
21 farmland, loss of \$810 million in crop revenue, loss
22 of \$203 million in dairy and other livestock value,
23 and increased groundwater pumping costs by \$454

1 million. The statewide economic costs are estimated
2 to be \$2.2 billion, with over 17,000 seasonal and
3 part-time agricultural jobs lost.

4 (6) CVPIA Level II water deliveries to refuges
5 have also been reduced by 25 percent in the north
6 of Delta region, and by 35 percent in the south of
7 Delta region.

8 (7) Only one-sixth of the usual acres of rice
9 fields are being flooded this fall, which leads to a
10 significant decline in habitat for migratory birds and
11 an increased risk of disease at the remaining wet-
12 lands due to overcrowding of such birds.

13 (8) The drought of 2013 through 2014 con-
14 stitutes a serious emergency that poses immediate
15 and severe risks to human life and safety and to the
16 environment throughout the State.

17 (9) The serious emergency described in para-
18 graph (4) requires—

19 (A) immediate and credible action that re-
20 spects the complexity of the water system of the
21 State and the importance of the water system
22 to the entire State; and

23 (B) policies that do not pit stakeholders
24 against one another, which history shows only

1 leads to costly litigation that benefits no one
2 and prevents any real solutions.

3 (10) Data on the difference between water de-
4 mand and reliable water supplies for various regions
5 of California south of the Delta, including the San
6 Joaquin Valley, indicate there is a significant annual
7 gap between reliable water supplies to meet agricul-
8 tural, municipal and industrial, groundwater, and
9 refuges water needs within the Delta Division, San
10 Luis Unit and Friant Division of the Central Valley
11 Project and the State Water Project south of the
12 Sacramento-San Joaquin River Delta and the de-
13 mands of those areas. This gap varies depending on
14 the methodology of the analysis performed, but can
15 be represented in the following ways:

16 (A) For Central Valley Project South-of-
17 Delta water service contractors, if it is assumed
18 that a water supply deficit is the difference in
19 the amount of water available for allocation
20 versus the maximum contract quantity, then the
21 water supply deficits that have developed from
22 1992 to 2014 as a result of legislative and reg-
23 ulatory changes besides natural variations in
24 hydrology during this timeframe range between
25 720,000 and 1,100,000 acre-feet.

1 (B) For Central Valley Project and State
2 Water Project water service contractors south
3 of the Delta and north of the Tehachapi moun-
4 tain range, if it is assumed that a water supply
5 deficit is the difference between reliable water
6 supplies, including maximum water contract de-
7 liveries, safe yield of groundwater, safe yield of
8 local and surface supplies and long-term con-
9 tracted water transfers, and water demands, in-
10 cluding water demands from agriculture, munic-
11 ipal and industrial and refuge contractors, then
12 the water supply deficit ranges between ap-
13 proximately 2,500,000 to 2,700,000 acre-feet.

14 (11) Data of pumping activities at the Central
15 Valley Project and State Water Project delta pumps
16 identifies that, on average from Water Year 2009 to
17 Water Year 2014, take of Delta smelt is 80 percent
18 less than allowable take levels under the biological
19 opinion issued December 15, 2008.

20 (12) Data of field sampling activities of the
21 Interagency Ecological Program located in the Sac-
22 ramento-San Joaquin Estuary identifies that, on av-
23 erage from 2005 to 2013, the program “takes”
24 3,500 delta smelt during annual surveys with an au-
25 thorized “take” level of 33,480 delta smelt annu-

1 ally—according to the biological opinion issued De-
2 cember 9, 1997.

3 (13) In 2015, better information exists than
4 was known in 2008 concerning conditions and oper-
5 ations that may or may not lead to high salvage
6 events that jeopardize the fish populations, and what
7 alternative management actions can be taken to
8 avoid jeopardy.

9 (14) Alternative management strategies, remov-
10 ing non-native species, enhancing habitat, moni-
11 toring fish movement and location in real-time, and
12 improving water quality in the Delta can contribute
13 significantly to protecting and recovering these en-
14 dangered fish species, and at potentially lower costs
15 to water supplies.

16 (15) Resolution of fundamental policy questions
17 concerning the extent to which application of the
18 Endangered Species Act of 1973 affects the oper-
19 ation of the Central Valley Project and State Water
20 Project is the responsibility of Congress.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) DELTA.—The term “Delta” means the Sac-
24 ramento-San Joaquin Delta and the Suisun Marsh,

1 as defined in sections 12220 and 29101 of the Cali-
2 fornia Public Resources Code.

3 (2) EXPORT PUMPING RATES.—The term “ex-
4 port pumping rates” means the rates of pumping at
5 the C.W. “Bill” Jones Pumping Plant and the Har-
6 vey O. Banks Pumping Plant, in the southern Delta.

7 (3) LISTED FISH SPECIES.—The term “listed
8 fish species” means listed salmonid species and the
9 Delta smelt.

10 (4) LISTED SALMONID SPECIES.—The term
11 “listed salmonid species” means natural origin
12 steelhead, natural origin genetic spring run Chinook,
13 and genetic winter run Chinook salmon including
14 hatchery steelhead or salmon populations within the
15 evolutionary significant unit (ESU) or distinct popu-
16 lation segment (DPS).

17 (5) NEGATIVE IMPACT ON THE LONG-TERM
18 SURVIVAL.—The term “negative impact on the long-
19 term survival” means to reduce appreciably the like-
20 lihood of the survival of a listed species in the wild
21 by reducing the reproduction, numbers, or distribu-
22 tion of that species.

23 (6) OMR.—The term “OMR” means the Old
24 and Middle River in the Delta.

1 (7) OMR FLOW OF -5,000 CUBIC FEET PER
2 SECOND.—The term “OMR flow of -5,000 cubic
3 feet per second” means Old and Middle River flow
4 of negative 5,000 cubic feet per second as described
5 in—

6 (A) the smelt biological opinion; and

7 (B) the salmonid biological opinion.

8 (8) SALMONID BIOLOGICAL OPINION.—The
9 term “salmonid biological opinion” means the bio-
10 logical opinion issued by the National Marine Fish-
11 eries Service on June 4, 2009.

12 (9) SMELT BIOLOGICAL OPINION.—The term
13 “smelt biological opinion” means the biological opin-
14 ion on the Long-Term Operational Criteria and Plan
15 for coordination of the Central Valley Project and
16 State Water Project issued by the United States
17 Fish and Wildlife Service on December 15, 2008.

18 (10) STATE.—The term “State” means the
19 State of California.

1 **TITLE I—ADJUSTING DELTA**
2 **SMELT MANAGEMENT BASED**
3 **ON INCREASED REAL-TIME**
4 **MONITORING AND UPDATED**
5 **SCIENCE**

6 **SEC. 101. DEFINITIONS.**

7 In this title:

8 (1) **DIRECTOR.**—The term “Director” means
9 the Director of the United States Fish and Wildlife
10 Service.

11 (2) **DELTA SMELT.**—The term “Delta smelt”
12 means the fish species with the scientific name
13 *Hypomesus transpacificus*.

14 (3) **SECRETARY.**—The term “Secretary” means
15 the Secretary of the Interior.

16 (4) **COMMISSIONER.**—The term “Commis-
17 sioner” means the Commissioner of the Bureau of
18 Reclamation.

19 **SEC. 102. REVISE INCIDENTAL TAKE LEVEL CALCULATION**
20 **FOR DELTA SMELT TO REFLECT NEW**
21 **SCIENCE.**

22 (a) **REVIEW AND MODIFICATION.**—Not later than
23 October 1, 2016, and at least every five years thereafter,
24 the Director, in cooperation with other Federal, State, and
25 local agencies, shall use the best scientific and commercial

1 data available to complete a review and, modify the meth-
2 od used to calculate the incidental take levels for adult
3 and larval/juvenile Delta smelt in the smelt biological opin-
4 ion that takes into account all life stages, among other
5 considerations—

6 (1) salvage information collected since at least
7 1993;

8 (2) updated or more recently developed statis-
9 tical models;

10 (3) updated scientific and commercial data; and

11 (4) the most recent information regarding the
12 environmental factors affecting Delta smelt salvage.

13 (b) MODIFIED INCIDENTAL TAKE LEVEL.—Unless
14 the Director determines in writing that one or more of
15 the requirements described in paragraphs (1) through (4)
16 are not appropriate, the modified incidental take level de-
17 scribed in subsection (a) shall—

18 (1) be normalized for the abundance of
19 prespawning adult Delta smelt using the Fall
20 Midwater Trawl Index or other index;

21 (2) be based on a simulation of the salvage that
22 would have occurred from 1993 through 2012 if
23 OMR flow has been consistent with the smelt bio-
24 logical opinions;

- 1 (3) base the simulation on a correlation between
2 annual salvage rates and historic water clarity and
3 OMR flow during the adult salvage period; and
4 (4) set the incidental take level as the 80 per-
5 cent upper prediction interval derived from simu-
6 lated salvage rates since at least 1993.

7 **SEC. 103. FACTORING INCREASED REAL-TIME MONITORING**
8 **AND UPDATED SCIENCE INTO DELTA SMELT**
9 **MANAGEMENT.**

10 (a) IN GENERAL.—The Director shall use the best
11 scientific and commercial data available to implement,
12 continuously evaluate, and refine or amend, as appro-
13 priate, the reasonable and prudent alternative described
14 in the smelt biological opinion, and any successor opinions
15 or court order. The Secretary shall make all significant
16 decisions under the smelt biological opinion, or any suc-
17 cessor opinions that affect Central Valley Project and
18 State Water Project operations, in writing, and shall docu-
19 ment the significant facts upon which such decisions are
20 made, consistent with section 706 of title 5, United States
21 Code.

22 (b) INCREASED MONITORING TO INFORM REAL-
23 TIME OPERATIONS.—The Secretary shall conduct addi-
24 tional surveys, on an annual basis at the appropriate time

1 of the year based on environmental conditions, in collabo-
2 ration with other Delta science interests.

3 (1) In implementing this section, the Secretary
4 shall—

5 (A) use the most accurate survey methods
6 available for the detection of Delta smelt to de-
7 termine the extent that adult Delta smelt are
8 distributed in relation to certain levels of tur-
9 bidity, or other environmental factors that may
10 influence salvage rate; and

11 (B) use results from appropriate survey
12 methods for the detection of Delta smelt to de-
13 termine how the Central Valley Project and
14 State Water Project may be operated more effi-
15 ciently to minimize salvage while maximizing
16 export pumping rates without causing a signifi-
17 cant negative impact on the long-term survival
18 of the Delta smelt.

19 (2) During the period beginning on December
20 1, 2015, and ending March 31, 2016, and in each
21 successive December through March period, if sus-
22 pended sediment loads enter the Delta from the Sac-
23 ramento River and the suspended sediment loads ap-
24 pear likely to raise turbidity levels in the Old River
25 north of the export pumps from values below 12

1 Nephelometric Turbidity Units (NTU) to values
2 above 12 NTU, the Secretary shall—

3 (A) conduct daily monitoring using appro-
4 priate survey methods at locations including,
5 but not limited to, the vicinity of Station 902
6 to determine the extent that adult Delta smelt
7 are moving with turbidity toward the export
8 pumps; and

9 (B) use results from the monitoring sur-
10 veys referenced in paragraph (A) to determine
11 how increased trawling can inform daily real-
12 time Central Valley Project and State Water
13 Project operations to minimize salvage while
14 maximizing export pumping rates without caus-
15 ing a significant negative impact on the long-
16 term survival of the Delta smelt.

17 (c) PERIODIC REVIEW OF MONITORING.—Within 12
18 months of the date of enactment of this title, and at least
19 once every 5 years thereafter, the Secretary shall—

20 (1) evaluate whether the monitoring program
21 under subsection (b), combined with other moni-
22 toring programs for the Delta, is providing sufficient
23 data to inform Central Valley Project and State
24 Water Project operations to minimize salvage while
25 maximizing export pumping rates without causing a

1 significant negative impact on the long-term survival
2 of the Delta smelt; and

3 (2) determine whether the monitoring efforts
4 should be changed in the short or long term to pro-
5 vide more useful data.

6 (d) DELTA SMELT DISTRIBUTION STUDY.—

7 (1) IN GENERAL.—No later than January 1,
8 2016, and at least every five years thereafter, the
9 Secretary, in collaboration with the California De-
10 partment of Fish and Wildlife, the California De-
11 partment of Water Resources, public water agencies,
12 and other interested entities, shall implement new
13 targeted sampling and monitoring specifically de-
14 signed to understand Delta smelt abundance, dis-
15 tribution, and the types of habitat occupied by Delta
16 smelt during all life stages.

17 (2) SAMPLING.—The Delta smelt distribution
18 study shall, at a minimum—

19 (A) include recording water quality and
20 tidal data;

21 (B) be designed to understand Delta smelt
22 abundance, distribution, habitat use, and move-
23 ment throughout the Delta, Suisun Marsh, and
24 other areas occupied by the Delta smelt during
25 all seasons;

1 (C) consider areas not routinely sampled
2 by existing monitoring programs, including wet-
3 land channels, near-shore water, depths below
4 35 feet, and shallow water; and

5 (D) use survey methods, including sam-
6 pling gear, best suited to collect the most accu-
7 rate data for the type of sampling or moni-
8 toring.

9 (e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION
10 OF OMR FLOW REQUIREMENTS.—In implementing the
11 provisions of the smelt biological opinion, or any successor
12 biological opinion or court order, pertaining to manage-
13 ment of reverse flow in the Old and Middle Rivers, the
14 Secretary shall—

15 (1) consider the relevant provisions of the bio-
16 logical opinion or any successor biological opinion;

17 (2) to maximize Central Valley project and
18 State Water Project water supplies, manage export
19 pumping rates to achieve a reverse OMR flow rate
20 of $-5,000$ cubic feet per second unless information
21 developed by the Secretary under paragraphs (3)
22 and (4) leads the Secretary to reasonably conclude
23 that a less negative OMR flow rate is necessary to
24 avoid a negative impact on the long-term survival of
25 the Delta smelt. If information available to the Sec-

1 retary indicates that a reverse OMR flow rate more
2 negative than $-5,000$ cubic feet per second can be
3 established without an imminent negative impact on
4 the long-term survival of the Delta smelt, the Sec-
5 retary shall manage export pumping rates to achieve
6 that more negative OMR flow rate;

7 (3) document in writing any significant facts
8 about real-time conditions relevant to the determina-
9 tions of OMR reverse flow rates, including—

10 (A) whether targeted real-time fish moni-
11 toring in the Old River pursuant to this section,
12 including monitoring in the vicinity of Station
13 902, indicates that a significant negative impact
14 on the long-term survival of the Delta smelt is
15 imminent; and

16 (B) whether near-term forecasts with avail-
17 able salvage models show under prevailing con-
18 ditions that OMR flow of $-5,000$ cubic feet per
19 second or higher will cause a significant nega-
20 tive impact on the long-term survival of the
21 Delta smelt;

22 (4) show in writing that any determination to
23 manage OMR reverse flow at rates less negative
24 than $-5,000$ cubic feet per second is necessary to
25 avoid a significant negative impact on the long-term

1 survival of the Delta smelt, including an explanation
2 of the data examined and the connection between
3 those data and the choice made, after considering—

4 (A) the distribution of Delta smelt
5 throughout the Delta;

6 (B) the potential effects of documented,
7 quantified entrainment on subsequent Delta
8 smelt abundance;

9 (C) the water temperature;

10 (D) other significant factors relevant to
11 the determination; and

12 (E) whether any alternative measures
13 could have a substantially lesser water supply
14 impact; and

15 (5) for any subsequent biological opinion, make
16 the showing required in paragraph (4) for any deter-
17 mination to manage OMR reverse flow at rates less
18 negative than the most negative limit in the biologi-
19 cal opinion if the most negative limit in the biologi-
20 cal opinion is more negative than $-5,000$ cubic feet
21 per second.

22 (f) MEMORANDUM OF UNDERSTANDING.—No later
23 than December 1, 2015, the Commissioner and the Direc-
24 tor will execute a Memorandum of Understanding (MOU)
25 to ensure that the smelt biological opinion is implemented

1 in a manner that maximizes water supply while complying
2 with applicable laws and regulations. If that MOU alters
3 any procedures set out in the biological opinion, there will
4 be no need to reinitiate consultation if those changes will
5 not have a significant negative impact on the long-term
6 survival on listed species and the implementation of the
7 MOU would not be a major change to implementation of
8 the biological opinion. Any change to procedures that does
9 not create a significant negative impact on the long-term
10 survival to listed species will not alter application of the
11 take permitted by the incidental take statement in the bio-
12 logical opinion under section 7(o)(2) of the Endangered
13 Species Act of 1973.

14 (g) CALCULATION OF REVERSE FLOW IN OMR.—
15 Within 90 days of the enactment of this title, the Sec-
16 retary is directed, in consultation with the California De-
17 partment of Water Resources to revise the method used
18 to calculate reverse flow in Old and Middle Rivers for im-
19 plementation of the reasonable and prudent alternatives
20 in the smelt biological opinion and the salmonid biological
21 opinion, and any succeeding biological opinions, for the
22 purpose of increasing Central Valley Project and State
23 Water Project water supplies. The method of calculating
24 reverse flow in Old and Middle Rivers shall be reevaluated
25 not less than every five years thereafter to achieve max-

1 imum export pumping rates within limits established by
2 the smelt biological opinion, the salmonid biological opin-
3 ion, and any succeeding biological opinions.

4 **TITLE II—ENSURING SALMONID**
5 **MANAGEMENT IS RESPON-**
6 **SIVE TO NEW SCIENCE**

7 **SEC. 201. DEFINITIONS.**

8 In this title:

9 (1) ASSISTANT ADMINISTRATOR.—The term
10 “Assistant Administrator” means the Assistant Ad-
11 ministrator of the National Oceanic and Atmos-
12 pheric Administration for Fisheries.

13 (2) SECRETARY.—The term “Secretary” means
14 the Secretary of Commerce.

15 (3) OTHER AFFECTED INTERESTS.—The term
16 “other affected interests” means the State of Cali-
17 fornia, Indian tribes, subdivisions of the State of
18 California, public water agencies and those who ben-
19 efit directly and indirectly from the operations of the
20 Central Valley Project and the State Water Project.

21 (4) COMMISSIONER.—The term “Commis-
22 sioner” means the Commissioner of the Bureau of
23 Reclamation.

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

4 **SEC. 202. PROCESS FOR ENSURING SALMONID MANAGE-**
5 **MENT IS RESPONSIVE TO NEW SCIENCE.**

6 (a) GENERAL DIRECTIVE.—The reasonable and pru-
7 dent alternative described in the salmonid biological opin-
8 ion allows for and anticipates adjustments in Central Val-
9 ley Project and State Water Project operation parameters
10 to reflect the best scientific and commercial data currently
11 available, and authorizes efforts to test and evaluate im-
12 provements in operations that will meet applicable regu-
13 latory requirements and maximize Central Valley Project
14 and State Water Project water supplies and reliability.
15 Implementation of the reasonable and prudent alternative
16 described in the salmonid biological opinion shall be ad-
17 justed accordingly as new scientific and commercial data
18 are developed. The Commissioner and the Assistant Ad-
19 ministrators shall fully utilize these authorities as described
20 below.

21 (b) ANNUAL REVIEWS OF CERTAIN CENTRAL VAL-
22 LEY PROJECT AND STATE WATER PROJECT OPER-
23 ATIONS.—No later than December 31, 2016, and at least
24 annually thereafter:

1 (1) The Commissioner, with the assistance of
2 the Assistant Administrator, shall examine and iden-
3 tify adjustments to the initiation of Action IV.2.3 as
4 set forth in the Biological Opinion and Conference
5 Opinion on the Long-Term Operations of the Cen-
6 tral Valley Project and State Water Project, Endan-
7 gered Species Act Section 7 Consultation, issued by
8 the National Marine Fisheries Service on June 4,
9 2009, pertaining to negative OMR flows, subject to
10 paragraph (5).

11 (2) The Commissioner, with the assistance of
12 the Assistant Administrator, shall examine and iden-
13 tify adjustments in the timing, triggers or other
14 operational details relating to the implementation of
15 pumping restrictions in Action IV.2.1 pertaining to
16 the inflow to export ratio, subject to paragraph (5).

17 (3) Pursuant to the consultation and assess-
18 ments carried out under paragraphs (1) and (2) of
19 this subsection, the Commissioner and the Assistant
20 Administrator shall jointly make recommendations
21 to the Secretary of the Interior and to the Secretary
22 on adjustments to project operations that, in the ex-
23 ercise of the adaptive management provisions of the
24 salmonid biological opinion, will reduce water supply
25 impacts of the salmonid biological opinion on the

1 Central Valley Project and the California State
2 Water Project and are consistent with the require-
3 ments of applicable law and as further described in
4 subsection (c).

5 (4) The Secretary and the Secretary of the In-
6 terior shall direct the Commissioner and Assistant
7 Administrator to implement recommended adjust-
8 ments to Central Valley Project and State Water
9 Project operations for which the conditions under
10 subsection (c) are met.

11 (5) The Assistant Administrator and the Com-
12 missioner shall review and identify adjustments to
13 Central Valley Project and State Water Project op-
14 erations with water supply restrictions in any suc-
15 cessor biological opinion to the salmonid biological
16 opinion, applying the provisions of this section to
17 those water supply restrictions where there are ref-
18 erences to Actions IV.2.1 and IV.2.3.

19 (c) IMPLEMENTATION OF OPERATIONAL ADJUST-
20 MENTS.—After reviewing the recommendations under sub-
21 section (b), the Secretary of the Interior and the Secretary
22 shall direct the Commissioner and the Assistant Adminis-
23 trator to implement those operational adjustments, or any
24 combination, for which, in aggregate—

1 (1) the net effect on listed species is equivalent
2 to those of the underlying project operational param-
3 eters in the salmonid biological opinion, taking into
4 account both—

5 (A) efforts to minimize the adverse effects
6 of the adjustment to project operations; and

7 (B) whatever additional actions or meas-
8 ures may be implemented in conjunction with
9 the adjustments to operations to offset the ad-
10 verse effects to listed species, consistent with
11 (d), that are in excess of the adverse effects of
12 the underlying operational parameters, if any;
13 and

14 (2) the effects of the adjustment can be reason-
15 ably expected to fall within the incidental take au-
16 thorizations.

17 (d) EVALUATION OF OFFSETTING MEASURES.—
18 When examining and identifying opportunities to offset
19 the potential adverse effect of adjustments to operations
20 under subsection (c)(1)(B), the Commissioner and the As-
21 sistant Administrator shall take into account the potential
22 species survival improvements that are likely to result
23 from other measures which, if implemented in conjunction
24 with such adjustments, would offset adverse effects, if any,
25 of the adjustments. When evaluating offsetting measures,

1 the Commissioner and the Assistant Administrator shall
2 consider the type, timing and nature of the adverse effects,
3 if any, to specific species and ensure that the measures
4 likely provide equivalent overall benefits to the listed spe-
5 cies in the aggregate, as long as the change will not cause
6 a significant negative impact on the long-term survival of
7 a listed salmonid species.

8 (e) FRAMEWORK FOR EXAMINING OPPORTUNITIES
9 TO MINIMIZE OR OFFSET THE POTENTIAL ADVERSE EF-
10 FECT OF ADJUSTMENTS TO OPERATIONS.—Not later than
11 December 31, 2015, and every five years thereafter, the
12 Assistant Administrator shall, in collaboration with the
13 Director of the California Department of Fish and Wild-
14 life, based on the best scientific and commercial data avail-
15 able and for each listed salmonid species, issue estimates
16 of the increase in through-Delta survival the Secretary ex-
17 pects to be achieved—

18 (1) through restrictions on export pumping
19 rates as specified by Action IV.2.3 as compared to
20 limiting OMR flow to a fixed rate of $-5,000$ cubic
21 feet per second within the time period Action IV.2.3
22 is applicable, based on a given rate of San Joaquin
23 River inflow to the Delta and holding other relevant
24 factors constant;

1 (2) through San Joaquin River inflow to export
2 restrictions on export pumping rates specified within
3 Action IV.2.1 as compared to the restrictions in the
4 April/May period imposed by the State Water Re-
5 sources Control Board decision D-1641, based on a
6 given rate of San Joaquin River inflow to the Delta
7 and holding other relevant factors constant;

8 (3) through physical habitat restoration im-
9 provements;

10 (4) through predation control programs;

11 (5) through the installation of temporary bar-
12 riers, the management of Cross Channel Gates oper-
13 ations, and other projects affecting flow in the
14 Delta;

15 (6) through salvaging fish that have been en-
16 trained near the entrance to Clifton Court Forebay;

17 (7) through any other management measures
18 that may provide equivalent or better protections for
19 listed species while maximizing export pumping rates
20 without causing a significant negative impact on the
21 long-term survival of a listed salmonid species; and

22 (8) through development and implementation of
23 conservation hatchery programs for salmon and
24 steelhead to aid in the recovery of listed salmon and
25 steelhead species.

1 (f) SURVIVAL ESTIMATES.—

2 (1) To the maximum extent practicable, the As-
3 sistant Administrator shall make quantitative esti-
4 mates of survival such as a range of percentage in-
5 creases in through-Delta survival that could result
6 from the management measures, and if the scientific
7 information is lacking for quantitative estimates,
8 shall do so on qualitative terms based upon the best
9 available science.

10 (2) If the Assistant Administrator provides
11 qualitative survival estimates for a species resulting
12 from one or more management measures, the Sec-
13 retary shall, to the maximum extent feasible, rank
14 the management measures described in subsection
15 (e) in terms of their most likely expected contribu-
16 tion to increased through-Delta survival relative to
17 the other measures.

18 (3) If at the time the Assistant Administrator
19 conducts the reviews under subsection (b), the Sec-
20 retary has not issued an estimate of increased
21 through-Delta survival from different management
22 measures pursuant to subsection (e), the Secretary
23 shall compare the protections to the species from
24 different management measures based on the best
25 scientific and commercial data available at the time.

1 (g) COMPARISON OF ADVERSE CONSEQUENCES FOR
2 ALTERNATIVE MANAGEMENT MEASURES OF EQUIVALENT
3 PROTECTION FOR A SPECIES.—

4 (1) For the purposes of this subsection and
5 subsection (c)—

6 (A) the alternative management measure
7 or combination of alternative management
8 measures identified in paragraph (2) shall be
9 known as the “equivalent alternative measure”;

10 (B) the existing measure or measures iden-
11 tified in subparagraphs (2) (A), (B), (C), or
12 (D) shall be known as the “equivalent existing
13 measure”; and

14 (C) an “equivalent increase in through-
15 Delta survival rates for listed salmonid species”
16 shall mean an increase in through-Delta sur-
17 vival rates that is equivalent when considering
18 the change in through-Delta survival rates for
19 the listed salmonid species in the aggregate,
20 and not the same change for each individual
21 species, as long as the change in survival rates
22 will not cause a significant negative impact on
23 the long-term survival of a listed salmonid spe-
24 cies.

1 (2) As part of the reviews of project operations
2 pursuant to subsection (b), the Assistant Adminis-
3 trator shall determine whether any alternative man-
4 agement measures or combination of alternative
5 management measures listed in subsection (e) (3)
6 through (8) would provide an increase in through-
7 Delta survival rates for listed salmonid species that
8 is equivalent to the increase in through-Delta sur-
9 vival rates for listed salmonid species from the fol-
10 lowing:

11 (A) Through restrictions on export pump-
12 ing rates as specified by Action IV.2.3, as com-
13 pared to limiting OMR flow to a fixed rate of
14 —5,000 cubic feet per second within the time
15 period Action IV.2.3 is applicable.

16 (B) Through restrictions on export pump-
17 ing rates as specified by Action IV.2.3, as com-
18 pared to a modification of Action IV.2.3 that
19 would provide additional water supplies, other
20 than that described in subparagraph (A).

21 (C) Through San Joaquin River inflow to
22 export restrictions on export pumping rates
23 specified within Action IV.2.1, as compared to
24 the restrictions in the April/May period imposed

1 by the State Water Resources Control Board
2 decision D–1641.

3 (D) Through San Joaquin River inflow to
4 export restrictions on export pumping rates
5 specified within Action IV.2.1, as compared to
6 a modification of Action IV.2.1 that would re-
7 duce water supply impacts of the salmonid bio-
8 logical opinion on the Central Valley Project
9 and the California State Water Project, other
10 than that described in subparagraph (C).

11 (3) If the Assistant Administrator identifies an
12 equivalent alternative measure pursuant to para-
13 graph (2), the Assistant Administrator shall deter-
14 mine whether—

15 (A) it is technically feasible and within
16 Federal jurisdiction to implement the equivalent
17 alternative measure;

18 (B) the State of California, or subdivision
19 thereof, or local agency with jurisdiction has
20 certified in writing within 10 calendar days to
21 the Assistant Administrator that it has the au-
22 thority and capability to implement the perti-
23 nent equivalent alternative measure; or

24 (C) the adverse consequences of doing so
25 are less than the adverse consequences of the

1 equivalent existing measure, including a concise
2 evaluation of the adverse consequences to other
3 affected interests.

4 (4) If the Assistant Administrator makes the
5 determinations in subparagraph (3)(A) or (3)(B),
6 the Commissioner shall adjust project operations to
7 implement the equivalent alternative measure in
8 place of the equivalent existing measure in order to
9 increase export rates of pumping to the greatest ex-
10 tent possible while maintaining a net combined effect
11 of equivalent through-Delta survival rates for the
12 listed salmonid species.

13 (h) TRACKING ADVERSE EFFECTS BEYOND THE
14 RANGE OF EFFECTS ACCOUNTED FOR IN THE SALMONID
15 BIOLOGICAL OPINION AND COORDINATED OPERATION
16 WITH THE DELTA SMELT BIOLOGICAL OPINION.—

17 (1) Among the adjustments to the project oper-
18 ations considered through the adaptive management
19 process under this section, the Assistant Adminis-
20 trator and the Commissioner shall—

21 (A) evaluate the effects on listed salmonid
22 species and water supply of the potential ad-
23 justment to operational criteria described in
24 subparagraph (B); and

1 (B) consider requiring that before some or
2 all of the provisions of Actions IV.2.1. or IV.2.3
3 are imposed in any specific instance, the Assist-
4 ant Administrator show that the implementa-
5 tion of these provisions in that specific instance
6 is necessary to avoid a significant negative im-
7 pact on the long-term survival of a listed
8 salmonid species.

9 (2) The Assistant Administrator, the Director,
10 and the Commissioner, in coordination with State of-
11 ficials as appropriate, shall establish operational cri-
12 teria to coordinate management of OMR flows under
13 the smelt and salmonid biological opinions, in order
14 to take advantage of opportunities to provide addi-
15 tional water supplies from the coordinated imple-
16 mentation of the biological opinions.

17 (3) The Assistant Administrator and the Com-
18 missioner shall document the effects of any adaptive
19 management decisions related to the coordinated op-
20 eration of the smelt and salmonid biological opinions
21 that prioritizes the maintenance of one species at the
22 expense of the other.

23 (i) REAL-TIME MONITORING AND MANAGEMENT.—
24 Notwithstanding the calendar based triggers described in
25 the salmonid biological opinion Reasonable and Prudent

1 Alternative (RPA), the Assistant Administrator and the
2 Commissioner shall not limit OMR reverse flow to $-5,000$
3 cubic feet per second unless current monitoring data indi-
4 cate that this OMR flow limitation is reasonably required
5 to avoid a significant negative impact on the long-term
6 survival of a listed salmonid species.

7 (j) EVALUATION AND IMPLEMENTATION OF MANAGE-
8 MENT MEASURES.—If the quantitative estimates of
9 through-Delta survival established by the Secretary for the
10 adjustments in subsection (b)(2) exceed the through-Delta
11 survival established for the RPAs, the Secretary shall
12 evaluate and implement the management measures in sub-
13 section (b)(2) as a prerequisite to implementing the RPAs
14 contained in the Salmonid Biological Opinion.

15 (k) ACCORDANCE WITH OTHER LAW.—Consistent
16 with section 706 of title 5, United States Code, decisions
17 of the Assistant Administrator and the Commissioner de-
18 scribed in subsections (b) through (j) shall be made in
19 writing, on the basis of best scientific and commercial data
20 currently available, and shall include an explanation of the
21 data examined at the connection between those data and
22 the decisions made.

1 **SEC. 203. NON-FEDERAL PROGRAM TO PROTECT NATIVE**
2 **ANADROMOUS FISH IN THE STANISLAUS**
3 **RIVER.**

4 (a) ESTABLISHMENT OF NONNATIVE PREDATOR
5 FISH REMOVAL PROGRAM.—The Secretary and the dis-
6 tricts, in consultation with the Director, shall jointly de-
7 velop and conduct a nonnative predator fish removal pro-
8 gram to remove nonnative striped bass, smallmouth bass,
9 largemouth bass, black bass, and other nonnative predator
10 fish species from the Stanislaus River. The program
11 shall—

12 (1) be scientifically based;

13 (2) include methods to quantify the number and
14 size of predator fish removed each year, the impact
15 of such removal on the overall abundance of pred-
16 ator fish, and the impact of such removal on the
17 populations of juvenile anadromous fish found in the
18 Stanislaus River by, among other things, evaluating
19 the number of juvenile anadromous fish that migrate
20 past the rotary screw trap located at Caswell;

21 (3) among other methods, use wire fyke trap-
22 ping, portable resistance board weirs, and boat
23 electrofishing; and

24 (4) be implemented as quickly as possible fol-
25 lowing the issuance of all necessary scientific re-
26 search.

1 (b) MANAGEMENT.—The management of the pro-
2 gram shall be the joint responsibility of the Secretary and
3 the districts. Such parties shall work collaboratively to en-
4 sure the performance of the program, and shall discuss
5 and agree upon, among other things, changes in the struc-
6 ture, management, personnel, techniques, strategy, data
7 collection, reporting, and conduct of the program.

8 (c) CONDUCT.—

9 (1) IN GENERAL.—By agreement between the
10 Secretary and the districts, the program may be con-
11 ducted by their own personnel, qualified private con-
12 tractors hired by the districts, personnel of, on loan
13 to, or otherwise assigned to the National Marine
14 Fisheries Service, or a combination thereof.

15 (2) PARTICIPATION BY THE NATIONAL MARINE
16 FISHERIES SERVICE.—If the districts elect to con-
17 duct the program using their own personnel or quali-
18 fied private contractors hired by them in accordance
19 with paragraph (1), the Secretary may assign an
20 employee of, on loan to, or otherwise assigned to the
21 National Marine Fisheries Service, to be present for
22 all activities performed in the field. Such presence
23 shall ensure compliance with the agreed-upon ele-
24 ments specified in subsection (b). The districts shall

1 pay the cost of such participation in accordance with
2 subsection (d).

3 (3) TIMING OF ELECTION.—The districts shall
4 notify the Secretary of their election on or before
5 October 15 of each calendar year of the program.
6 Such an election shall apply to the work performed
7 in the subsequent calendar year.

8 (d) FUNDING.—

9 (1) IN GENERAL.—The districts shall be re-
10 sponsible for 100 percent of the cost of the program.

11 (2) CONTRIBUTED FUNDS.—The Secretary may
12 accept and use contributions of funds from the dis-
13 tricts to carry out activities under the program.

14 (3) ESTIMATION OF COST.—On or before De-
15 cember 1 of each year of the program, the Secretary
16 shall submit to the districts an estimate of the cost
17 to be incurred by the National Marine Fisheries
18 Service for the program in the following calendar
19 year, if any, including the cost of any data collection
20 and posting under subsection (e). If an amount
21 equal to the estimate is not provided through con-
22 tributions pursuant to paragraph (2) before Decem-
23 ber 31 of that year—

24 (A) the Secretary shall have no obligation
25 to conduct the program activities otherwise

1 scheduled for such following calendar year until
2 such amount is contributed by the districts; and

3 (B) the districts may not conduct any as-
4 pect of the program until such amount is con-
5 tributed by the districts.

6 (4) ACCOUNTING.—On or before September 1
7 of each year, the Secretary shall provide to the dis-
8 tricts an accounting of the costs incurred by the Sec-
9 retary for the program in the preceding calendar
10 year. If the amount contributed by the districts pur-
11 suant to paragraph (2) for that year was greater
12 than the costs incurred by the Secretary, the Sec-
13 retary shall—

14 (A) apply the excess contributions to costs
15 of activities to be performed by the Secretary
16 under the program, if any, in the next calendar
17 year; or

18 (B) if no such activities are to be per-
19 formed, repay the excess contribution to the
20 districts.

21 (e) POSTING AND EVALUATION.—On or before the
22 15th day of each month, the Secretary shall post on the
23 Internet website of the National Marine Fisheries Service
24 a tabular summary of the raw data collected under the
25 program in the preceding month.

1 (f) IMPLEMENTATION.—The program is hereby found
2 to be consistent with the requirements of the Central Val-
3 ley Project Improvement Act (Public Law 102–575). No
4 provision, plan or definition established or required by the
5 Central Valley Project Improvement Act (Public Law
6 102–575) shall be used to prohibit the imposition of the
7 program, or to prevent the accomplishment of its goals.

8 (g) TREATMENT OF STRIPED BASS.—For purposes
9 of the application of the Central Valley Project Improve-
10 ment Act (title XXXIV of Public Law 102–575) with re-
11 spect to the program, striped bass shall not be treated as
12 anadromous fish.

13 (h) DEFINITION.—For the purposes of this section,
14 the term “districts” means the Oakdale Irrigation District
15 and the South San Joaquin Irrigation District, California.

16 **SEC. 204. PILOT PROJECTS TO IMPLEMENT CALFED**
17 **INVASIVE SPECIES PROGRAM.**

18 (a) IN GENERAL.—Not later than January 1, 2017,
19 the Secretary of the Interior, in collaboration with the Sec-
20 retary of Commerce, the Director of the California De-
21 partment of Fish and Wildlife, and other relevant agencies
22 and interested parties, shall begin pilot projects to imple-
23 ment the invasive species control program authorized pur-
24 suant to section 103(d)(6)(A)(iv) of Public Law 108–361
25 (118 Stat. 1690).

1 (b) REQUIREMENTS.—The pilot projects shall—

2 (1) seek to reduce invasive aquatic vegetation,
3 predators, and other competitors which contribute to
4 the decline of native listed pelagic and anadromous
5 species that occupy the Sacramento and San Joa-
6 quin Rivers and their tributaries and the Sac-
7 ramento-San Joaquin Bay-Delta; and

8 (2) remove, reduce, or control the effects of spe-
9 cies, including Asiatic clams, silversides, gobies, Bra-
10 zilian water weed, water hyacinth, largemouth bass,
11 smallmouth bass, striped bass, crappie, bluegill,
12 white and channel catfish, and brown bullheads.

13 (c) SUNSET.—The authorities provided under this
14 subsection shall expire seven years after the Secretaries
15 commence implementation of the pilot projects pursuant
16 to subsection (a).

17 (d) EMERGENCY ENVIRONMENTAL REVIEWS.—To
18 expedite the environmentally beneficial programs for the
19 conservation of threatened and endangered species, the
20 Secretaries shall consult with the Council on Environ-
21 mental Quality in accordance with section 1506.11 of title
22 40, Code of Federal Regulations (or successor regula-
23 tions), to develop alternative arrangements to comply with
24 the National Environmental Policy Act of 1969 (42 U.S.C.
25 4321 et seq.) for the projects pursuant to subsection (a).

1 **TITLE III—OPERATIONAL FLEXI-**
2 **BILITY AND DROUGHT RE-**
3 **LIEF**

4 **SEC. 301. DEFINITIONS.**

5 In this title:

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

11 (2) RECLAMATION PROJECT.—The term “Rec-
12 lamation Project” means a project constructed pur-
13 suant to the authorities of the reclamation laws and
14 whose facilities are wholly or partially located in the
15 State.

16 (3) SECRETARIES.—The term “Secretaries”
17 means—

18 (A) the Secretary of Agriculture;

19 (B) the Secretary of Commerce; and

20 (C) the Secretary of the Interior.

21 (4) STATE WATER PROJECT.—The term “State
22 Water Project” means the water project described
23 by California Water Code section 11550 et seq. and
24 operated by the California Department of Water Re-
25 sources.

1 (5) STATE.—The term “State” means the State
2 of California.

3 **SEC. 302. OPERATIONAL FLEXIBILITY IN TIMES OF**
4 **DROUGHT.**

5 (a) WATER SUPPLIES.—For the period of time such
6 that in any year that the Sacramento Valley Index is 6.5
7 or lower, or at the request of the State of California, and
8 until two succeeding years following either of those events
9 have been completed where the final Sacramento Valley
10 Index is 7.8 or greater, the Secretaries shall provide the
11 maximum quantity of water supplies practicable to all in-
12 dividuals or district who receive Central Valley Project
13 water under water service or repayments contracts, water
14 rights settlement contracts, exchange contracts, or refuge
15 contracts or agreements entered into prior to or after the
16 date of enactment of this title; State Water Project con-
17 tractors, and any other tribe, locality, water agency, or
18 municipality in the State, by approving, consistent with
19 applicable laws (including regulations), projects and oper-
20 ations to provide additional water supplies as quickly as
21 practicable based on available information to address the
22 emergency conditions.

23 (b) ADMINISTRATION.—In carrying out subsection
24 (a), the Secretaries shall, consistent with applicable laws
25 (including regulations)—

1 (1) issue all necessary permit decisions under
2 the authority of the Secretaries not later than 30
3 days after the date on which the Secretaries receive
4 a completed application from the State to place and
5 use temporary barriers or operable gates in Delta
6 channels to improve water quantity and quality for
7 the State Water Project and the Central Valley
8 Project south of Delta water contractors and other
9 water users, on the condition that the barriers or op-
10 erable gates—

11 (A) do not result in a significant negative
12 impact on the long-term survival of listed spe-
13 cies within the Delta and provide benefits or
14 have a neutral impact on in-Delta water user
15 water quality; and

16 (B) are designed so that formal consulta-
17 tions under section 7 of the Endangered Spe-
18 cies Act of 1973 (16 U.S.C. 1536) are not nec-
19 essary;

20 (2) require the Director of the United States
21 Fish and Wildlife Service and the Commissioner of
22 Reclamation—

23 (A) to complete, not later than 30 days
24 after the date on which the Director or the
25 Commissioner receives a complete written re-

1 quest for water transfer, all requirements under
2 the National Environmental Policy Act of 1969
3 (42 U.S.C. 4321 et seq.) and the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.)
5 necessary to make final permit decisions on the
6 request; and

7 (B) to approve any water transfer request
8 described in subparagraph (A) to maximize the
9 quantity of water supplies available for non-
10 habitat uses, on the condition that actions asso-
11 ciated with the water transfer comply with ap-
12 plicable Federal laws (including regulations);

13 (3) adopt a 1:1 inflow to export ratio, as meas-
14 ured as a 3-day running average at Vernalis during
15 the period beginning on April 1, and ending on May
16 31, absent a determination in writing that a more
17 restrictive inflow to export ratio is required to avoid
18 a significant negative impact on the long-term sur-
19 vival of a listed salmonid species under the Endan-
20 gered Species Act of 1973 (16 U.S.C. 1531 et seq.);
21 provided that the 1:1 inflow to export ratio shall
22 apply for the increment of increased flow of the San
23 Joaquin River resulting from the voluntary sale,
24 transfers, or exchanges of water from agencies with
25 rights to divert water from the San Joaquin River

1 or its tributaries and provided that the movement of
2 the acquired, transferred, or exchanged water
3 through the Delta consistent with the Central Valley
4 Project's and the State Water Project's permitted
5 water rights and provided that movement of the
6 Central Valley Project water is consistent with the
7 requirements of section 3405(a)(1)(H) of the Cen-
8 tral Valley Project Improvement Act; and

9 (4) allow and facilitate, consistent with existing
10 priorities, water transfers through the C.W. "Bill"
11 Jones Pumping Plant or the Harvey O. Banks
12 Pumping Plant from April 1 to November 30 pro-
13 vided water transfers comply with State law, includ-
14 ing the California Environmental Quality Act.

15 (c) ACCELERATED PROJECT DECISION AND ELE-
16 VATION.—

17 (1) IN GENERAL.—On request by the Governor
18 of the State, the Secretaries shall use the expedited
19 procedures under this subsection to make final deci-
20 sions relating to a Federal project or operation, or
21 to local or State projects or operations that require
22 decisions by the Secretary of the Interior or the Sec-
23 retary of Commerce to provide additional water sup-
24 plies if the project's or operation's purpose is to pro-

1 vide relief for emergency drought conditions pursu-
2 ant to subsections (a) and (b).

3 (2) REQUEST FOR RESOLUTION.—

4 (A) IN GENERAL.—On request by the Gov-
5 ernor of the State, the Secretaries referenced in
6 paragraph (1), or the head of another Federal
7 agency responsible for carrying out a review of
8 a project, as applicable, the Secretary of the In-
9 terior shall convene a final project decision
10 meeting with the heads of all relevant Federal
11 agencies to decide whether to approve a project
12 to provide relief for emergency drought condi-
13 tions.

14 (B) MEETING.—The Secretary of the Inte-
15 rior shall convene a meeting requested under
16 subparagraph (A) not later than 7 days after
17 the date on which the meeting request is re-
18 ceived.

19 (3) NOTIFICATION.—On receipt of a request for
20 a meeting under paragraph (2), the Secretary of the
21 Interior shall notify the heads of all relevant Federal
22 agencies of the request, including information on the
23 project to be reviewed and the date of the meeting.

24 (4) DECISION.—Not later than 10 days after
25 the date on which a meeting is requested under

1 paragraph (2), the head of the relevant Federal
2 agency shall issue a final decision on the project,
3 subject to subsection (e)(2).

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

9 (d) APPLICATION.—To the extent that a Federal
10 agency, other than the agencies headed by the Secretaries,
11 has a role in approving projects described in subsections
12 (a) and (b), this section shall apply to those Federal agen-
13 cies.

14 (e) LIMITATION.—Nothing in this section authorizes
15 the Secretaries to approve projects—

16 (1) that would otherwise require congressional
17 authorization; or

18 (2) without following procedures required by
19 applicable law.

20 (f) DROUGHT PLAN.—For the period of time such
21 that in any year that the Sacramento Valley index is 6.5
22 or lower, or at the request of the State of California, and
23 until two succeeding years following either of those events
24 have been completed where the final Sacramento Valley
25 Index is 7.8 or greater, the Secretaries of Commerce and

1 the Interior, in consultation with appropriate State offi-
2 cials, shall develop a drought operations plan that is con-
3 sistent with the provisions of this Act including the provi-
4 sions that are intended to provide additional water sup-
5 plies that could be of assistance during the current
6 drought.

7 **SEC. 303. OPERATION OF CROSS-CHANNEL GATES.**

8 (a) IN GENERAL.—The Secretary of Commerce and
9 the Secretary of the Interior shall jointly—

10 (1) authorize and implement activities to ensure
11 that the Delta Cross Channel Gates remain open to
12 the maximum extent practicable using findings from
13 the United States Geological Survey on diurnal be-
14 havior of juvenile salmonids, timed to maximize the
15 peak flood tide period and provide water supply and
16 water quality benefits for the duration of the
17 drought emergency declaration of the State, and for
18 the period of time such that in any year that the
19 Sacramento Valley index is 6.5 or lower, or at the
20 request of the State of California, and until two suc-
21 ceeding years following either of those events have
22 been completed where the final Sacramento Valley
23 Index is 7.8 or greater, consistent with operational
24 criteria and monitoring criteria set forth into the
25 Order Approving a Temporary Urgency Change in

1 License and Permit Terms in Response to Drought
2 Conditions of the California State Water Resources
3 Control Board, effective January 31, 2014 (or a suc-
4 cessor order) and other authorizations associated
5 with it;

6 (2) with respect to the operation of the Delta
7 Cross Channel Gates described in paragraph (1),
8 collect data on the impact of that operation on—

9 (A) species listed as threatened or endan-
10 gered under the Endangered Species Act of
11 1973 (16 U.S.C. 1531 et seq.);

12 (B) water quality; and

13 (C) water supply;

14 (3) collaborate with the California Department
15 of Water Resources to install a deflection barrier at
16 Georgiana Slough in coordination with Delta Cross
17 Channel Gate diurnal operations to protect migrat-
18 ing salmonids, consistent with knowledge gained
19 from activities carried out during 2014 and 2015;

20 (4) evaluate the combined salmonid survival in
21 light of activities carried out pursuant to paragraphs
22 (1) through (3) in deciding how to operate the Delta
23 Cross Channel gates to enhance salmonid survival
24 and water supply benefits; and

1 (5) not later than May 15, 2016, submit to the
2 appropriate committees of the House of Representa-
3 tives and the Senate a notice and explanation on the
4 extent to which the gates are able to remain open.

5 (b) RECOMMENDATIONS.—After assessing the infor-
6 mation collected under subsection (a), the Secretary of the
7 Interior shall recommend revisions to the operation of the
8 Delta Cross-Channel Gates, to the Central Valley Project,
9 and to the State Water Project, including, if appropriate,
10 any reasonable and prudent alternative contained in the
11 biological opinion issued by the National Marine Fisheries
12 Service on June 4, 2009, that are likely to produce water
13 supply benefits without causing a significant negative im-
14 pact on the long-term survival of the listed fish species
15 within the Delta or on water quality.

16 **SEC. 304. FLEXIBILITY FOR EXPORT/INFLOW RATIO.**

17 For the period of time such that in any year that
18 the Sacramento Valley index is 6.5 or lower, or at the re-
19 quest of the State of California, and until two succeeding
20 years following either of those events have been completed
21 where the final Sacramento Valley Index is 7.8 or greater,
22 the Commissioner of the Bureau of Reclamation shall con-
23 tinue to vary the averaging period of the Delta Export/
24 Inflow ratio pursuant to the California State Water Re-
25 sources Control Board decision D1641—

1 (1) to operate to a 35-percent Export/Inflow
2 ratio with a 3-day averaging period on the rising
3 limb of a Delta inflow hydrograph; and

4 (2) to operate to a 14-day averaging period on
5 the falling limb of the Delta inflow hydrograph.

6 **SEC. 305. EMERGENCY ENVIRONMENTAL REVIEWS.**

7 (a) NEPA COMPLIANCE.—To minimize the time
8 spent carrying out environmental reviews and to deliver
9 water quickly that is needed to address emergency drought
10 conditions in the State during the duration of an emer-
11 gency drought declaration, the Secretaries shall, in car-
12 rying out this Act, consult with the Council on Environ-
13 mental Quality in accordance with section 1506.11 of title
14 40, Code of Federal Regulations (including successor reg-
15 ulations), to develop alternative arrangements to comply
16 with the National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) during the emergency.

18 (b) DETERMINATIONS.—For the purposes of this sec-
19 tion, a Secretary may deem a project to be in compliance
20 with all necessary environmental regulations and reviews
21 if the Secretary determines that the immediate implemen-
22 tation of the project is necessary to address—

23 (1) human health and safety; or

24 (2) a specific and imminent loss of agriculture
25 production upon which an identifiable region de-

1 pendes for 25 percent or more of its tax revenue used
2 to support public services including schools, fire or
3 police services, city or county health facilities, unem-
4 ployment services or other associated social services.

5 **SEC. 306. INCREASED FLEXIBILITY FOR REGULAR PROJECT**
6 **OPERATIONS.**

7 The Secretaries shall, consistent with applicable laws
8 (including regulations)—

9 (1) in coordination with the California Depart-
10 ment of Water Resources and the California Depart-
11 ment of Fish and Wildlife, implement offsite up-
12 stream projects in the Delta and upstream of the
13 Sacramento River and San Joaquin basins that off-
14 set the effects on species listed as threatened or en-
15 dangered under the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.) due to activities carried out
17 pursuant this Act, as determined by the Secretaries;

18 (2) manage reverse flow in the Old and Middle
19 Rivers at $-6,100$ cubic feet per second if real-time
20 monitoring indicates that flows of $-6,100$ cubic feet
21 per second or more negative can be established for
22 specific periods without causing a significant nega-
23 tive impact on the long-term survival of the Delta
24 smelt, or if real-time monitoring does not support
25 flows of $-6,100$ cubic feet per second than manage

1 OMR flows at $-5,000$ cubic feet per second subject
2 to section 103(e) (3) and (4); and

3 (3) use all available scientific tools to identify
4 any changes to real-time operations of the Bureau of
5 Reclamation, State, and local water projects that
6 could result in the availability of additional water
7 supplies.

8 **SEC. 307. TEMPORARY OPERATIONAL FLEXIBILITY FOR**
9 **FIRST FEW STORMS OF THE WATER YEAR.**

10 (a) IN GENERAL.—Consistent with avoiding a signifi-
11 cant negative impact on the long-term survival in the short
12 term upon listed fish species beyond the range of those
13 authorized under the Endangered Species Act of 1973 and
14 other environmental protections under subsection (e), the
15 Secretaries shall authorize the Central Valley Project and
16 the State Water Project, combined, to operate at levels
17 that result in negative OMR flows at $-7,500$ cubic feet
18 per second (based on United States Geological Survey
19 gauges on Old and Middle Rivers) daily average for 56
20 cumulative days after October 1 as described in subsection
21 (c).

22 (b) DAYS OF TEMPORARY OPERATIONAL FLEXI-
23 BILITY.—The temporary operational flexibility described
24 in subsection (a) shall be authorized on days that the Cali-
25 fornia Department of Water Resources determines the

1 daily average river flow of the Sacramento River is at, or
2 above, 17,000 cubic feet per second as measured at the
3 Sacramento River at Freeport gauge maintained by the
4 United States Geologic Survey.

5 (c) COMPLIANCE WITH ENDANGERED SPECIES ACT
6 AUTHORIZATIONS.—In carrying out this section, the Sec-
7 retaries may continue to impose any requirements under
8 the smelt and salmonid biological opinions during any pe-
9 riod of temporary operational flexibility as they determine
10 are reasonably necessary to avoid an additional significant
11 negative impacts on the long-term survival of a listed fish
12 species beyond the range of those authorized under the
13 Endangered Species Act of 1973, provided that the re-
14 quirements imposed do not reduce water supplies available
15 for the Central Valley Project and the State Water
16 Project.

17 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

18 (1) STATE LAW.—The Secretaries' actions
19 under this section shall be consistent with applicable
20 regulatory requirements under State law.

21 (2) FIRST SEDIMENT FLUSH.—During the first
22 flush of sediment out of the Delta in each water
23 year, and provided that such determination is based
24 upon objective evidence, OMR flow may be managed
25 at rates less negative than $-5,000$ cubic feet per

1 second for a minimum duration to avoid movement
2 of adult Delta smelt (*Hypomesus transpacificus*) to
3 areas in the southern Delta that would be likely to
4 increase entrainment at Central Valley Project and
5 State Water Project pumping plants.

6 (3) APPLICABILITY OF OPINION.—This section
7 shall not affect the application of the salmonid bio-
8 logical opinion from April 1 to May 31, unless the
9 Secretary of Commerce finds that some or all of
10 such applicable requirements may be adjusted dur-
11 ing this time period to provide emergency water sup-
12 ply relief without resulting in additional adverse ef-
13 fects beyond those authorized under the Endangered
14 Species Act of 1973. In addition to any other ac-
15 tions to benefit water supply, the Secretary of the
16 Interior and the Secretary of Commerce shall con-
17 sider allowing through-Delta water transfers to
18 occur during this period if they can be accomplished
19 consistent with section 3405(a)(1)(H) of the Central
20 Valley Project Improvement Act. Water transfers
21 solely or exclusively through the State Water Project
22 are not required to be consistent with section
23 3405(a)(1)(H) of the Central Valley Project Im-
24 provement Act.

1 (4) MONITORING.—During operations under
2 this section, the Commissioner of Reclamation, in
3 coordination with the Fish and Wildlife Service, Na-
4 tional Marine Fisheries Service, and California De-
5 partment of Fish and Wildlife, shall undertake a
6 monitoring program and other data gathering to en-
7 sure incidental take levels are not exceeded, and to
8 identify potential negative impacts and actions, if
9 any, necessary to mitigate impacts of the temporary
10 operational flexibility to species listed under the En-
11 dangered Species Act of 1973 (16 U.S.C. 1531 et
12 seq.).

13 (e) TECHNICAL ADJUSTMENTS TO TARGET PE-
14 RIOD.—If, before temporary operational flexibility has
15 been implemented on 56 cumulative days, the Secretaries
16 operate the Central Valley Project and the State Water
17 Project combined at levels that result in OMR flows less
18 negative than $-7,500$ cubic feet per second during days
19 of temporary operational flexibility as defined in sub-
20 section (c), the duration of such operation shall not be
21 counted toward the 56 cumulative days specified in sub-
22 section (a).

23 (f) EMERGENCY CONSULTATION; EFFECT ON RUN-
24 NING AVERAGES.—

1 (1) If necessary to implement the provisions of
2 this section, the Commissioner is authorized to take
3 any action necessary to implement this section for
4 up to 56 cumulative days. If during the 56 cumu-
5 lative days the Commissioner determines that ac-
6 tions necessary to implement this section will exceed
7 56 days, the Commissioner shall use the emergency
8 consultation procedures under the Endangered Spe-
9 cies Act of 1973 and its implementing regulation at
10 section 402.05 of title 50, Code of Federal Regula-
11 tions, to temporarily adjust the operating criteria
12 under the biological opinions—

13 (A) solely for extending beyond the 56 cu-
14 mulative days for additional days of temporary
15 operational flexibility—

16 (i) no more than necessary to achieve
17 the purposes of this section consistent with
18 the environmental protections in sub-
19 sections (d) and (e); and

20 (ii) including, as appropriate, adjust-
21 ments to ensure that the actual flow rates
22 during the periods of temporary oper-
23 ational flexibility do not count toward the
24 5-day and 14-day running averages of

1 tidally filtered daily OMR flow require-
2 ments under the biological opinions, or

3 (B) for other adjustments to operating cri-
4 teria or to take other urgent actions to address
5 water supply shortages for the least amount of
6 time or volume of diversion necessary as deter-
7 mined by the Commissioner.

8 (2) Following the conclusion of the 56 cumu-
9 lative days of temporary operational flexibility, or
10 the extended number of days covered by the emer-
11 gency consultation procedures, the Commissioner
12 shall not reinitiate consultation on these adjusted
13 operations, and no mitigation shall be required, if
14 the effects on listed fish species of these operations
15 under this section remain within the range of those
16 authorized under the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.). If the Commissioner
18 reinitiates consultation, no mitigation measures shall
19 be required.

20 (g) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—
21 In articulating the determinations required under this sec-
22 tion, the Secretaries shall fully satisfy the requirements
23 herein but shall not be expected to provide a greater level
24 of supporting detail for the analysis than feasible to pro-
25 vide within the short timeframe permitted for timely deci-

1 sionmaking in response to changing conditions in the
2 Delta.

3 **SEC. 308. EXPEDITING WATER TRANSFERS.**

4 (a) IN GENERAL.—Section 3405(a) of the Central
5 Valley Project Improvement Act (Public Law 102–575;
6 106 Stat. 4709(a)) is amended—

7 (1) by redesignating paragraphs (1) through
8 (3) as paragraphs (4) through (6), respectively;

9 (2) in the matter preceding paragraph (4) (as
10 so designated)—

11 (A) in the first sentence, by striking “In
12 order to” and inserting the following:

13 “(1) IN GENERAL.—In order to”; and

14 (B) in the second sentence, by striking
15 “Except as provided herein” and inserting the
16 following:

17 “(3) TERMS.—Except as otherwise provided in
18 this section”;

19 (3) by inserting before paragraph (3) (as so
20 designated) the following:

21 “(2) EXPEDITED TRANSFER OF WATER.—The
22 Secretary shall take all necessary actions to facilitate
23 and expedite transfers of Central Valley Project
24 water in accordance with—

25 “(A) this Act;

1 “(B) any other applicable provision of the
2 reclamation laws; and

3 “(C) the National Environmental Policy
4 Act of 1969 (42 U.S.C. 4321 et seq.).”;
5 (4) in paragraph (4) (as so designated)—

6 (A) in subparagraph (A), by striking “to
7 combination” and inserting “or combination”;
8 and

9 (B) by striking “3405(a)(2) of this title”
10 each place it appears and inserting “(5)”;
11 (5) in paragraph (5) (as so designated), by add-
12 ing at the end the following:

13 “(E) The contracting district from which
14 the water is coming, the agency, or the Sec-
15 retary shall determine if a written transfer pro-
16 posal is complete within 45 days after the date
17 of submission of the proposal. If the contracting
18 district or agency or the Secretary determines
19 that the proposal is incomplete, the district or
20 agency or the Secretary shall state with speci-
21 ficity what must be added to or revised for the
22 proposal to be complete.”; and

23 (6) in paragraph (6) (as so designated), by
24 striking “3405(a)(1)(A)–(C), (E), (G), (H), (I), (L),
25 and (M) of this title” and inserting “(A) through

1 (C), (E), (G), (H), (I), (L), and (M) of paragraph
2 (4)’’.

3 (b) CONFORMING AMENDMENTS.—The Central Val-
4 ley Project Improvement Act (Public Law 102–575) is
5 amended—

6 (1) in section 3407(c)(1) (106 Stat. 4726), by
7 striking “3405(a)(1)(C)” and inserting
8 “3405(a)(4)(C)”;

9 (2) in section 3408(i)(1) (106 Stat. 4729), by
10 striking “3405(a)(1) (A) and (J) of this title” and
11 inserting “subparagraphs (A) and (J) of section
12 3405(a)(4)’’.

13 **SEC. 309. ADDITIONAL EMERGENCY CONSULTATION.**

14 For adjustments to operating criteria other than
15 under section 308 of this Act or to take urgent actions
16 to address water supply shortages for the least amount
17 of time or volume of diversion necessary as determined
18 by the Commissioner of Reclamation, no mitigation meas-
19 ures shall be required during any year that the Sac-
20 ramento Valley index is 6.5 or lower, or at the request
21 of the State of California, and until two succeeding years
22 following either of those events have been completed where
23 the final Sacramento Valley Index is 7.8 or greater, and
24 any mitigation measures imposed must be based on quan-

1 titative data and required only to the extent that such data
2 demonstrates actual harm to species.

3 **SEC. 310. ADDITIONAL STORAGE AT NEW MELONES.**

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

1 **SEC. 311. REGARDING THE OPERATION OF FOLSOM RES-**
2 **ERVOIR.**

3 The Secretary of the Interior, in collaboration with
4 the Sacramento Water Forum, shall expedite evaluation,
5 completion and implementation of the Modified Lower
6 American River Flow Management Standard developed by
7 the Water Forum in 2015 to improve water supply reli-
8 ability for Central Valley Project American River water
9 contractors and resource protection in the lower American
10 River during consecutive dry-years under current and fu-
11 ture demand and climate change conditions.

12 **SEC. 312. APPLICANTS.**

13 In the event that the Bureau of Reclamation or an-
14 other Federal agency initiates or reinitiates consultation
15 with the U.S. Fish and Wildlife Service or the National
16 Marine Fisheries Service under section 7(a)(2) of the En-
17 dangered Species Act of 1973 (16 U.S.C. 1536(a)(2)),
18 with respect to construction or operation of the Central
19 Valley Project and State Water Project, or any part there-
20 of, the State Water Project contractors and the Central
21 Valley Project contractors will be accorded all the rights
22 and responsibilities extended to applicants in the consulta-
23 tion process.

24 **SEC. 313. SAN JOAQUIN RIVER SETTLEMENT.**

25 (a) CALIFORNIA STATE LAW SATISFIED BY WARM
26 WATER FISHERY.—

1 (1) IN GENERAL.—Sections 5930 through 5948
2 of the California Fish and Game Code, and all appli-
3 cable Federal laws, including the San Joaquin River
4 Restoration Settlement Act (Public Law 111–11)
5 and the Stipulation of Settlement (Natural Re-
6 sources Defense Council, et al. v. Kirk Rodgers, et
7 al., Eastern District of California, No. Civ. S–88–
8 1658–LKK/GGH), shall be satisfied by the existence
9 of a warm water fishery in the San Joaquin River
10 below Friant Dam, but upstream of Gravelly Ford.

11 (2) DEFINITION OF WARM WATER FISHERY.—
12 For the purposes of this section, the term “warm
13 water fishery” means a water system that has an
14 environment suitable for species of fish other than
15 salmon (including all subspecies) and trout (includ-
16 ing all subspecies).

17 (b) REPEAL OF THE SAN JOAQUIN RIVER SETTLE-
18 MENT.—As of the date of enactment of this section, the
19 Secretary of the Interior shall cease any action to imple-
20 ment the San Joaquin River Restoration Settlement Act
21 (subtitle A of title X of Public Law 111–11) and the Stip-
22 ulation of Settlement (Natural Resources Defense Council,
23 et al. v. Kirk Rodgers, et al., Eastern District of Cali-
24 fornia, No. Civ. S–88–1658 LKK/GGH).

1 **SEC. 314. PROGRAM FOR WATER RESCHEDULING.**

2 By December 31, 2015, the Secretary of the Interior
3 shall develop and implement a program, including resched-
4 uling guidelines for Shasta and Folsom Reservoirs, to
5 allow existing Central Valley Project agricultural water
6 service contractors within the Sacramento River Water-
7 shed, and refuge service and municipal and industrial
8 water service contractors within the Sacramento River
9 Watershed and the American River Watershed to resched-
10 ule water, provided for under their Central Valley Project
11 contracts, from one year to the next; provided, that the
12 program is consistent with existing rescheduling guidelines
13 as utilized by the Bureau of Reclamation for rescheduling
14 water for Central Valley Project water service contractors
15 that are located South of the Delta.

16 **TITLE IV—CALFED STORAGE**
17 **FEASIBILITY STUDIES**

18 **SEC. 401. STUDIES.**

19 The Secretary of the Interior, through the Commis-
20 sioner of Reclamation, shall—

21 (1) complete the feasibility studies described in
22 clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of
23 Public Law 108–361 (118 Stat. 1684) and submit
24 such studies to the appropriate committees of the
25 House of Representatives and the Senate not later
26 than December 31, 2015;

1 (2) complete the feasibility study described in
2 clause (i)(II) of section 103(d)(1)(A) of Public Law
3 108–361 and submit such study to the appropriate
4 committees of the House of Representatives and the
5 Senate not later than November 30, 2016;

6 (3) complete a publicly available draft of the
7 feasibility study described in clause (ii)(I) of section
8 103(d)(1)(A) of Public Law 108–361 and submit
9 such study to the appropriate committees of the
10 House of Representatives and the Senate not later
11 than November 30, 2016;

12 (4) complete the feasibility study described in
13 clause (ii)(I) of section 103(d)(1)(A) of Public Law
14 108–361 and submit such study to the appropriate
15 committees of the House of Representatives and the
16 Senate not later than November 30, 2017;

17 (5) complete the feasibility study described in
18 section 103(f)(1)(A) of Public Law 108–361 (118
19 Stat. 1694) and submit such study to the appro-
20 priate Committees of the House of Representatives
21 and the Senate not later than December 31, 2017;

22 (6) provide a progress report on the status of
23 the feasibility studies referred to in paragraphs (1)
24 through (3) to the appropriate committees of the
25 House of Representatives and the Senate not later

1 than 90 days after the date of the enactment of this
2 Act and each 180 days thereafter until December
3 31, 2017, as applicable. The report shall include
4 timelines for study completion, draft environmental
5 impact statements, final environmental impact state-
6 ments, and Records of Decision;

7 (7) in conducting any feasibility study under
8 this Act, the reclamation laws, the Central Valley
9 Project Improvement Act (title XXXIV of Public
10 Law 102–575; 106 Stat. 4706), the Fish and Wild-
11 life Coordination Act (16 U.S.C. 661 et seq.), the
12 Endangered Species Act of 1973 (16 U.S.C. 1531 et
13 seq.), and other applicable law, for the purposes of
14 determining feasibility the Secretary shall document,
15 delineate, and publish costs directly relating to the
16 engineering and construction of a water storage
17 project separately from the costs resulting from reg-
18 ulatory compliance or the construction of auxiliary
19 facilities necessary to achieve regulatory compliance;
20 and

21 (8) communicate, coordinate and cooperate with
22 public water agencies that contract with the United
23 States for Central Valley Project water and that are
24 expected to participate in the cost pools that will be

1 created for the projects proposed in the feasibility
2 studies under this section.

3 **SEC. 402. TEMPERANCE FLAT.**

4 (a) DEFINITIONS.—For the purposes of this section:

5 (1) PROJECT.—The term “Project” means the
6 Temperance Flat Reservoir Project on the Upper
7 San Joaquin River.

8 (2) RMP.—The term “RMP” means the docu-
9 ment titled “Bakersfield Field Office, Record of De-
10 cision and Approved Resource Management Plan,”
11 dated December 2014.

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (b) APPLICABILITY OF RMP.—The RMP and find-
15 ings related thereto shall have no effect on or applicability
16 to the Secretary’s determination of feasibility of, or on any
17 findings or environmental review documents related to—

18 (1) the Project; or

19 (2) actions taken by the Secretary pursuant to
20 section 103(d)(1)(A)(ii)(II) of the Bay-Delta Au-
21 thorization Act (title I of Public Law 108–361).

22 (c) DUTIES OF SECRETARY UPON DETERMINATION
23 OF FEASIBILITY.—If the Secretary finds the Project to
24 be feasible, the Secretary shall manage the land rec-
25 ommended in the RMP for designation under the Wild and

1 Scenic Rivers Act (16 U.S.C. 1271 et seq.) in a manner
2 that does not impede any environmental reviews,
3 preconstruction, construction, or other activities of the
4 Project, regardless of whether or not the Secretary sub-
5 mits any official recommendation to Congress under the
6 Wild and Scenic Rivers Act.

7 (d) RESERVED WATER RIGHTS.—Effective Decem-
8 ber 22, 2014, there shall be no Federal reserved water
9 rights to any segment of the San Joaquin River related
10 to the Project as a result of any designation made under
11 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

12 **SEC. 403. CALFED STORAGE ACCOUNTABILITY.**

13 If the Secretary of the Interior fails to provide the
14 feasibility studies described in section 401 to the appro-
15 priate committees of the House of Representatives and the
16 Senate by the times prescribed, the Secretary shall notify
17 each committee chair individually in person on the status
18 of each project once a month until the feasibility study
19 for that project is provided to Congress.

20 **SEC. 404. WATER STORAGE PROJECT CONSTRUCTION.**

21 (a) PARTNERSHIP AND AGREEMENTS.—The Sec-
22 retary of the Interior, acting through the Commissioner
23 of the Bureau of Reclamation, may partner or enter into
24 an agreement on the water storage projects identified in
25 section 103(d)(1) of the Water Supply Reliability and En-

1 vironmental Improvement Act (Public Law 108–361) (and
2 Acts supplemental and amendatory to the Act) with local
3 joint powers authorities formed pursuant to State law by
4 irrigation districts and other local water districts and local
5 governments within the applicable hydrologic region, to
6 advance those projects.

7 (b) AUTHORIZATION FOR PROJECT.—If the Secretary
8 determines a project described in section 402(a)(1) and
9 (2) is feasible, the Secretary is authorized to carry out
10 the project in a manner that is substantially in accordance
11 with the recommended plan, and subject to the conditions
12 described in the feasibility study, provided that no Federal
13 funding shall be used to construct the project.

14 **TITLE V—WATER RIGHTS** 15 **PROTECTIONS**

16 **SEC. 501. OFFSET FOR STATE WATER PROJECT.**

17 (a) IMPLEMENTATION IMPACTS.—The Secretary of
18 the Interior shall confer with the California Department
19 of Fish and Wildlife in connection with the implementa-
20 tion of this Act on potential impacts to any consistency
21 determination for operations of the State Water Project
22 issued pursuant to California Fish and Game Code section
23 2080.1.

1 (b) ADDITIONAL YIELD.—If, as a result of the appli-
2 cation of this Act, the California Department of Fish and
3 Wildlife—

4 (1) revokes the consistency determinations pur-
5 suant to California Fish and Game Code section
6 2080.1 that are applicable to the State Water
7 Project;

8 (2) amends or issues one or more new consist-
9 ency determinations pursuant to California Fish and
10 Game Code section 2080.1 in a manner that directly
11 or indirectly results in reduced water supply to the
12 State Water Project as compared with the water
13 supply available under the smelt biological opinion
14 and the salmonid biological opinion; or

15 (3) requires take authorization under California
16 Fish and Game Code section 2081 for operation of
17 the State Water Project in a manner that directly or
18 indirectly results in reduced water supply to the
19 State Water Project as compared with the water
20 supply available under the smelt biological opinion
21 and the salmonid biological opinion, and as a con-
22 sequence of the Department's action, Central Valley
23 Project yield is greater than it would have been ab-
24 sent the Department's actions, then that additional
25 yield shall be made available to the State Water

1 Project for delivery to State Water Project contrac-
2 tors to offset losses resulting from the Department's
3 action.

4 (c) NOTIFICATION RELATED TO ENVIRONMENTAL
5 PROTECTIONS.—The Secretary of the Interior shall imme-
6 diately notify the Director of the California Department
7 of Fish and Wildlife in writing if the Secretary of the Inte-
8 rior determines that implementation of the smelt biological
9 opinion and the salmonid biological opinion consistent with
10 this Act reduces environmental protections for any species
11 covered by the opinions.

12 **SEC. 502. AREA OF ORIGIN PROTECTIONS.**

13 (a) IN GENERAL.—The Secretary of the Interior is
14 directed, in the operation of the Central Valley Project,
15 to adhere to California's water rights laws governing water
16 rights priorities and to honor water rights senior to those
17 held by the United States for operation of the Central Val-
18 ley Project, regardless of the source of priority, including
19 any appropriative water rights initiated prior to December
20 19, 1914, as well as water rights and other priorities per-
21 fected or to be perfected pursuant to California Water
22 Code Part 2 of Division 2. Article 1.7 (commencing with
23 section 1215 of chapter 1 of part 2 of division 2, sections
24 10505, 10505.5, 11128, 11460, 11461, 11462, and
25 11463, and sections 12200 to 12220, inclusive).

1 (b) DIVERSIONS.—Any action undertaken by the Sec-
2 retary of the Interior and the Secretary of Commerce pur-
3 suant to both this Act and section 7 of the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.) that requires
5 that diversions from the Sacramento River or the San Joa-
6 quin River watersheds upstream of the Delta be bypassed
7 shall not be undertaken in a manner that alters the water
8 rights priorities established by California law.

9 (c) ENDANGERED SPECIES ACT.—Nothing in this
10 title alters the existing authorities provided to and obliga-
11 tions placed upon the Federal Government under the En-
12 dangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
13 as amended.

14 (d) CONTRACTS.—With respect to individuals and en-
15 tities with water rights on the Sacramento River, the man-
16 dates of this section may be met, in whole or in part,
17 through a contract with the Secretary of the Interior exe-
18 cuted pursuant to section 14 of Public Law 76–260; 53
19 Stat. 1187 (43 U.S.C. 389) that is in conformance with
20 the Sacramento River Settlement Contracts renewed by
21 the Secretary of the Interior in 2005.

22 **SEC. 503. NO REDIRECTED ADVERSE IMPACTS.**

23 (a) IN GENERAL.—The Secretary of the Interior shall
24 ensure that, except as otherwise provided for in a water
25 service or repayment contract, actions taken in compliance

1 with legal obligations imposed pursuant to or as a result
2 of this Act, including such actions under section 7 of the
3 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
4 and other applicable Federal and State laws, shall not di-
5 rectly or indirectly—

6 (1) result in the involuntary reduction of water
7 supply or fiscal impacts to individuals or districts
8 who receive water from either the State Water
9 Project or the United States under water rights set-
10 tlement contracts, exchange contracts, water service
11 contracts, repayment contracts, or water supply con-
12 tracts; or

13 (2) cause redirected adverse water supply or fis-
14 cal impacts to those within the Sacramento River
15 watershed, the San Joaquin River watershed or the
16 State Water Project service area.

17 (b) COSTS.—To the extent that costs are incurred
18 solely pursuant to or as a result of this Act and would
19 not otherwise have been incurred by any entity or public
20 or local agency or subdivision of the State of California,
21 such costs shall not be borne by any such entity, agency,
22 or subdivision of the State of California, unless such costs
23 are incurred on a voluntary basis.

1 (c) RIGHTS AND OBLIGATIONS NOT MODIFIED OR
 2 AMENDED.—Nothing in this Act shall modify or amend
 3 the rights and obligations of the parties to any existing—

4 (1) water service, repayment, settlement, pur-
 5 chase, or exchange contract with the United States,
 6 including the obligation to satisfy exchange contracts
 7 and settlement contracts prior to the allocation of
 8 any other Central Valley Project water; or

9 (2) State Water Project water supply or settle-
 10 ment contract with the State.

11 **SEC. 504. ALLOCATIONS FOR SACRAMENTO VALLEY CON-**
 12 **TRACTORS.**

13 (a) ALLOCATIONS.—

14 (1) IN GENERAL.—Subject to paragraph (2)
 15 and subsection (b), the Secretary of the Interior is
 16 directed, in the operation of the Central Valley
 17 Project, to allocate water provided for irrigation pur-
 18 poses to existing Central Valley Project agricultural
 19 water service contractors within the Sacramento
 20 River Watershed in compliance with the following:

21 (A) Not less than 100 percent of their con-
 22 tract quantities in a “Wet” year.

23 (B) Not less than 100 percent of their con-
 24 tract quantities in an “Above Normal” year.

1 (C) Not less than 100 percent of their con-
2 tract quantities in a “Below Normal” year that
3 is preceded by an “Above Normal” or a “Wet”
4 year.

5 (D) Not less than 50 percent of their con-
6 tract quantities in a “Dry” year that is pre-
7 ceded by a “Below Normal,” an “Above Nor-
8 mal,” or a “Wet” year.

9 (E) In all other years not identified herein,
10 the allocation percentage for existing Central
11 Valley Project agricultural water service con-
12 tractors within the Sacramento River Water-
13 shed shall not be less than twice the allocation
14 percentage to south-of-Delta Central Valley
15 Project agricultural water service contractors,
16 up to 100 percent; provided, that nothing here-
17 in shall preclude an allocation to existing Cen-
18 tral Valley Project agricultural water service
19 contractors within the Sacramento River Water-
20 shed that is greater than twice the allocation
21 percentage to south-of-Delta Central Valley
22 Project agricultural water service contractors.

23 (2) CONDITIONS.—The Secretary’s actions
24 under paragraph (a) shall be subject to—

1 (A) the priority of individuals or entities
2 with Sacramento River water rights, including
3 those with Sacramento River Settlement Con-
4 tracts, that have priority to the diversion and
5 use of Sacramento River water over water
6 rights held by the United States for operations
7 of the Central Valley Project;

8 (B) the United States obligation to make
9 a substitute supply of water available to the
10 San Joaquin River Exchange Contractors; and

11 (C) the Secretary's obligation to make
12 water available to managed wetlands pursuant
13 to section 3406(d) of the Central Valley Project
14 Improvement Act (Public Law 102–575).

15 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL
16 SUPPLIES.—Nothing in subsection (a) shall be deemed
17 to—

18 (1) modify any provision of a water service con-
19 tract that addresses municipal and industrial water
20 shortage policies of the Secretary;

21 (2) affect or limit the authority of the Secretary
22 to adopt or modify municipal and industrial water
23 shortage policies;

1 (3) affect or limit the authority of the Secretary
2 to implement municipal and industrial water short-
3 age policies; or

4 (4) affect allocations to Central Valley Project
5 municipal and industrial contractors pursuant to
6 such policies.

7 Neither subsection (a) nor the Secretary's implementation
8 of subsection (a) shall constrain, govern or affect, directly,
9 the operations of the Central Valley Project's American
10 River Division or any deliveries from that Division, its
11 units or facilities.

12 (c) NO EFFECT ON ALLOCATIONS.—This section
13 shall not—

14 (1) affect the allocation of water to Friant Divi-
15 sion contractors; or

16 (2) result in the involuntary reduction in con-
17 tract water allocations to individuals or entities with
18 contracts to receive water from the Friant Division.

19 (d) PROGRAM FOR WATER RESCHEDULING.—The
20 Secretary of the Interior shall develop and implement a
21 program, not later than 1 year after the date of the enact-
22 ment of this Act, to provide for the opportunity for exist-
23 ing Central Valley Project agricultural water service con-
24 tractors within the Sacramento River Watershed to re-

1 schedule water, provided for under their Central Valley
 2 Project water service contracts, from one year to the next.

3 (e) DEFINITIONS.—In this section:

4 (1) The term “existing Central Valley Project
 5 agricultural water service contractors within the
 6 Sacramento River Watershed” means water service
 7 contractors within the Shasta, Trinity, and Sac-
 8 ramento River Divisions of the Central Valley
 9 Project, that have a water service contract in effect,
 10 on the date of the enactment of this section, that
 11 provides water for irrigation.

12 (2) The year type terms used in subsection (a)
 13 have the meaning given those year types in the Sac-
 14 ramento Valley Water Year Type (40–30–30) Index.

15 **SEC. 505. EFFECT ON EXISTING OBLIGATIONS.**

16 Nothing in this Act preempts or modifies any existing
 17 obligation of the United States under Federal reclamation
 18 law to operate the Central Valley Project in conformity
 19 with State law, including established water rights prior-
 20 ities.

21 **TITLE VI—MISCELLANEOUS**

22 **SEC. 601. AUTHORIZED SERVICE AREA.**

23 (a) IN GENERAL.—The authorized service area of the
 24 Central Valley Project authorized under the Central Valley
 25 Project Improvement Act (Public Law 102–575; 106 Stat.

1 4706) shall include the area within the boundaries of the
2 Kettleman City Community Services District, California,
3 as in existence on the date of enactment of this Act.

4 (b) LONG-TERM CONTRACT.—

5 (1) IN GENERAL.—Notwithstanding the Central
6 Valley Project Improvement Act (Public Law 102–
7 575; 106 Stat. 4706) and subject to paragraph (2),
8 the Secretary of the Interior, in accordance with the
9 Federal reclamation laws, shall enter into a long-
10 term contract with the Kettleman City Community
11 Services District, California, under terms and condi-
12 tions mutually agreeable to the parties, for the deliv-
13 ery of up to 900 acre-feet of Central Valley Project
14 water for municipal and industrial use.

15 (2) LIMITATION.—Central Valley Project water
16 deliveries authorized under the contract entered into
17 under paragraph (1) shall be limited to the minimal
18 quantity necessary to meet the immediate needs of
19 the Kettleman City Community Services District,
20 California, in the event that local supplies or State
21 Water Project allocations are insufficient to meet
22 those needs.

23 (c) PERMIT.—The Secretary shall apply for a permit
24 with the State for a joint place of use for water deliveries
25 authorized under the contract entered into under sub-

1 section (b) with respect to the expanded service area under
 2 subsection (a), consistent with State law.

3 (d) ADDITIONAL COSTS.—If any additional infra-
 4 structure, water treatment, or related costs are needed to
 5 implement this section, those costs shall be the responsi-
 6 bility of the non-Federal entity.

7 **SEC. 602. OVERSIGHT BOARD FOR RESTORATION FUND.**

8 (a) PLAN; ADVISORY BOARD.—Section 3407 of the
 9 Central Valley Project Improvement Act (Public Law
 10 102–575; 106 Stat. 4726) is amended by adding at the
 11 end the following:

12 “(g) PLAN ON EXPENDITURE OF FUNDS.—

13 “(1) IN GENERAL.—For each fiscal year, the
 14 Secretary, in consultation with the Advisory Board,
 15 shall submit to Congress a plan for the expenditure
 16 of all of the funds deposited into the Restoration
 17 Fund during the preceding fiscal year.

18 “(2) CONTENTS.—The plan shall include an
 19 analysis of the cost-effectiveness of each expenditure.

20 “(h) ADVISORY BOARD.—

21 “(1) ESTABLISHMENT.—There is established
 22 the Restoration Fund Advisory Board (referred to in
 23 this section as the ‘Advisory Board’), which shall be
 24 composed of 11 members appointed by the Sec-
 25 retary.

1 “(2) MEMBERSHIP.—

2 “(A) IN GENERAL.—The Secretary shall
3 appoint members to the Advisory Board that
4 represent the various Central Valley Project
5 stakeholders, of whom—

6 “(i) 4 members shall be agricultural
7 users of the Central Valley Project, includ-
8 ing at least one agricultural user from
9 north-of-the-Delta and one agricultural
10 user from south-of-the-Delta;

11 “(ii) 2 members shall be municipal
12 and industrial users of the Central Valley
13 Project, including one municipal and in-
14 dustrial user from north-of-the-Delta and
15 one municipal and industrial user from
16 south-of-the-Delta;

17 “(iii) 2 members shall be power con-
18 tractors of the Central Valley Project, in-
19 cluding at least one power contractor from
20 north-of-the-Delta and from south-of-the-
21 Delta;

22 “(iv) 1 member shall be a representa-
23 tive of a Federal national wildlife refuge
24 that contracts for Central Valley Project

1 water supplies with the Bureau of Rec-
2 lamation;

3 “(v) 1 member shall have expertise in
4 the economic impacts of the changes to
5 water operations; and

6 “(vi) 1 member shall be a representa-
7 tive of a wildlife entity that primarily fo-
8 cuses on waterfowl.

9 “(B) OBSERVER.—The Secretary and the
10 Secretary of Commerce may each designate a
11 representative to act as an observer of the Advi-
12 sory Board.

13 “(C) CHAIR.—The Secretary shall appoint
14 1 of the members described in subparagraph
15 (A) to serve as Chair of the Advisory Board.

16 “(3) TERMS.—The term of each member of the
17 Advisory Board shall be 4 years.

18 “(4) DATE OF APPOINTMENTS.—The appoint-
19 ment of a member of the Panel shall be made not
20 later than—

21 “(A) the date that is 120 days after the
22 date of enactment of this Act; or

23 “(B) in the case of a vacancy on the Panel
24 described in subsection (c)(2), the date that is

1 120 days after the date on which the vacancy
2 occurs.

3 “(5) VACANCIES.—

4 “(A) IN GENERAL.—A vacancy on the
5 Panel shall be filled in the manner in which the
6 original appointment was made and shall be
7 subject to any conditions that applied with re-
8 spect to the original appointment.

9 “(B) FILLING UNEXPIRED TERM.—An in-
10 dividual chosen to fill a vacancy shall be ap-
11 pointed for the unexpired term of the member
12 replaced.

13 “(C) EXPIRATION OF TERMS.—The term
14 of any member shall not expire before the date
15 on which the successor of the member takes of-
16 fice.

17 “(6) REMOVAL.—A member of the Panel may
18 be removed from office by the Secretary of the Inte-
19 rior.

20 “(7) FEDERAL ADVISORY COMMITTEE ACT.—
21 The Panel shall not be subject to the requirements
22 of the Federal Advisory Committee Act.

23 “(8) DUTIES.—The duties of the Advisory
24 Board are—

1 “(A) to meet not less frequently than semi-
2 annually to develop and make recommendations
3 to the Secretary regarding priorities and spend-
4 ing levels on projects and programs carried out
5 under this title;

6 “(B) to ensure that any advice given or
7 recommendation made by the Advisory Board
8 reflects the independent judgment of the Advi-
9 sory Board;

10 “(C) not later than December 31, 2015,
11 and annually thereafter, to submit to the Sec-
12 retary and Congress the recommendations
13 under subparagraph (A); and

14 “(D) not later than December 31, 2015,
15 and biennially thereafter, to submit to Congress
16 details of the progress made in achieving the
17 actions required under section 3406.

18 “(9) ADMINISTRATION.—With the consent of
19 the appropriate agency head, the Advisory Board
20 may use the facilities and services of any Federal
21 agency.

22 “(10) COOPERATION AND ASSISTANCE.—

23 “(A) PROVISION OF INFORMATION.—Upon
24 request of the Panel Chair for information or
25 assistance to facilitate carrying out this section,

1 the Secretary of the Interior shall promptly pro-
2 vide such information, unless otherwise prohib-
3 ited by law.

4 “(B) SPACE AND ASSISTANCE.—The Sec-
5 retary of the Interior shall provide the Panel
6 with appropriate and adequate office space, to-
7 gether with such equipment, office supplies, and
8 communications facilities and services as may
9 be necessary for the operation of the Panel, and
10 shall provide necessary maintenance services for
11 such offices and the equipment and facilities lo-
12 cated therein.”.

13 **SEC. 603. WATER SUPPLY ACCOUNTING.**

14 (a) IN GENERAL.—All Central Valley Project water,
15 except Central Valley Project water released pursuant to
16 U.S. Department of the Interior Record of Decision, Trin-
17 ity River Mainstem Fishery Restoration Final Environ-
18 mental Impact Statement/Environmental Impact Report
19 dated December 2000 used to implement an action under-
20 taken for a fishery beneficial purpose that was not im-
21 posed by terms and conditions existing in licenses, per-
22 mits, and other agreements pertaining to the Central Val-
23 ley Project under applicable State or Federal law existing
24 on October 30, 1992, shall be credited to the quantity of
25 Central Valley Project yield dedicated and managed under

1 this section; provided, that nothing herein shall affect the
2 Secretary of the Interior's duty to comply with any other-
3 wise lawful requirement imposed on operations of the Cen-
4 tral Valley Project under any provision of Federal or State
5 law.

6 (b) RECLAMATION POLICIES AND ALLOCATIONS.—
7 Reclamation policies and allocations shall not be based
8 upon any premise or assumption that Central Valley
9 Project contract supplies are supplemental or secondary
10 to any other contractor source of supply.

11 **SEC. 604. IMPLEMENTATION OF WATER REPLACEMENT**
12 **PLAN.**

13 (a) IN GENERAL.—Not later than October 1, 2016,
14 the Secretary of the Interior shall update and implement
15 the plan required by section 3408(j) of title XXXIV of
16 Public Law 102–575. The Secretary shall notify the Con-
17 gress annually describing the progress of implementing
18 the plan required by section 3408(j) of title XXXIV of
19 Public Law 102–575.

20 (b) POTENTIAL AMENDMENT.—If the plan required
21 in subsection (a) has not increased the Central Valley
22 Project yield by 800,000 acre-feet within 5 years after the
23 enactment of this Act, then section 3406 of the Central
24 Valley Project Improvement Act (title XXXIV of Public
25 Law 102–575) is amended as follows:

1 (1) In subsection (b)—

2 (A) by amending paragraph (2)(C) to read:

3 “(C) If by March 15, 2021, and any year
4 thereafter the quantity of Central Valley
5 Project water forecasted to be made available to
6 all water service or repayment contractors of
7 the Central Valley Project is below 50 percent
8 of the total quantity of water to be made avail-
9 able under said contracts, the quantity of Cen-
10 tral Valley Project yield dedicated and managed
11 for that year under this paragraph shall be re-
12 duced by 25 percent.”.

13 **SEC. 605. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

14 After the date of the enactment of this title, and re-
15 gardless of the date of listing, the Secretaries of the Inte-
16 rior and Commerce shall not distinguish between natural-
17 spawned and hatchery-spawned or otherwise artificially
18 propagated strains of a species in making any determina-
19 tion under the Endangered Species Act of 1973 (16
20 U.S.C. 1531 et seq.) that relates to any anadromous or
21 pelagic fish species that resides for all or a portion of its
22 life in the Sacramento-San Joaquin Delta or rivers tribu-
23 tary thereto.

1 **SEC. 606. TRANSFER THE NEW MELONES UNIT, CENTRAL**
2 **VALLEY PROJECT TO INTERESTED PRO-**
3 **VIDERS.**

4 (a) DEFINITIONS.—For the purposes of this section,
5 the following terms apply:

6 (1) INTERESTED LOCAL WATER AND POWER
7 PROVIDERS.—The term “interested local water and
8 power providers” includes the Calaveras County
9 Water District, Calaveras Public Power Agency,
10 Central San Joaquin Water Conservation District,
11 Oakdale Irrigation District, Stockton East Water
12 District, South San Joaquin Irrigation District,
13 Tuolumne Utilities District, Tuolumne Public Power
14 Agency, and Union Public Utilities District.

15 (2) NEW MELONES UNIT, CENTRAL VALLEY
16 PROJECT.—The term “New Melones Unit, Central
17 Valley Project” means all Federal reclamation
18 projects located within or diverting water from or to
19 the watershed of the Stanislaus and San Joaquin
20 rivers and their tributaries as authorized by the Act
21 of August 26, 1937 (50 Stat. 850), and all Acts
22 amendatory or supplemental thereto, including the
23 Act of October 23, 1962 (76 Stat. 1173).

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 (b) NEGOTIATIONS.—Notwithstanding any other pro-
2 vision of law, not later than 180 days after the date of
3 the enactment of this Act, the Secretary shall enter into
4 negotiations with interested local water and power pro-
5 viders for the transfer ownership, control, and operation
6 of the New Melones Unit, Central Valley Project to inter-
7 ested local water and power providers within the State of
8 California.

9 (c) TRANSFER.—The Secretary shall transfer the
10 New Melones Unit, Central Valley Project in accordance
11 with an agreement reached pursuant to negotiations con-
12 ducted under subsection (b).

13 (d) NOTIFICATION.—Not later than 360 days after
14 the date of the enactment of this Act, and every 6 months
15 thereafter, the Secretary shall notify the appropriate com-
16 mittees of the House of Representatives and the Senate—

17 (1) if an agreement is reached pursuant to ne-
18 gotiations conducted under subsection (b), the terms
19 of that agreement;

20 (2) of the status of formal discussions with in-
21 terested local water and power providers for the
22 transfer of ownership, control, and operation of the
23 New Melones Unit, Central Valley Project to inter-
24 ested local water and power providers;

1 (3) of all unresolved issues that are preventing
 2 execution of an agreement for the transfer of owner-
 3 ship, control, and operation of the New Melones
 4 Unit, Central Valley Project to interested local water
 5 and power providers;

6 (4) on analysis and review of studies, reports,
 7 discussions, hearing transcripts, negotiations, and
 8 other information about past and present formal dis-
 9 cussions that—

10 (A) have a serious impact on the progress
 11 of the formal discussions;

12 (B) explain or provide information about
 13 the issues that prevent progress or finalization
 14 of formal discussions; or

15 (C) are, in whole or in part, preventing
 16 execution of an agreement for the transfer; and

17 (5) of any actions the Secretary recommends
 18 that the United States should take to finalize an
 19 agreement for that transfer.

20 **SEC. 607. BASIN STUDIES.**

21 (a) AUTHORIZED STUDIES.—The Secretary of the In-
 22 terior is authorized and directed to expand opportunities
 23 and expedite completion of assessments under section
 24 9503(b) of the SECURE Water Act (42 U.S.C.
 25 10363(b)), with non-Federal partners, of individual sub-

1 basins and watersheds within major Reclamation river ba-
2 sins; and shall ensure timely decision and expedited imple-
3 mentation of adaptation and mitigation strategies devel-
4 oped through the special study process.

5 (b) FUNDING.—

6 (1) IN GENERAL.—The non-Federal partners
7 shall be responsible for 100 percent of the cost of
8 the special studies.

9 (2) CONTRIBUTED FUNDS.—The Secretary may
10 accept and use contributions of funds from the non-
11 Federal partners to carry out activities under the
12 special studies.

13 **SEC. 608. OPERATIONS OF THE TRINITY RIVER DIVISION.**

14 The Secretary of the Interior, in the operation of the
15 Trinity River Division of the Central Valley Project, shall
16 not make releases from Lewiston Dam in excess of the
17 volume for each water-year type required by the U.S. De-
18 partment of the Interior Record of Decision, Trinity River
19 Mainstem Fishery Restoration Final Environmental Im-
20 pact Statement/Environmental Impact Report dated De-
21 cember 2000.

22 (1) A maximum of 369,000 acre-feet in a
23 “Critically Dry” year.

24 (2) A maximum of 453,000 acre-feet in a
25 “Dry” year.

1 (3) A maximum of 647,000 acre-feet in a “Nor-
2 mal” year.

3 (4) A maximum of 701,000 acre-feet in a
4 “Wet” year.

5 (5) A maximum of 815,000 acre-feet in an
6 “Extremely Wet” year.

7 **SEC. 609. AMENDMENT TO PURPOSES.**

8 Section 3402 of the Central Valley Project Improve-
9 ment Act (106 Stat. 4706) is amended—

10 (1) in subsection (f), by striking the period at
11 the end; and

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

13 “(g) to ensure that water dedicated to fish and wild-
14 life purposes by this title is replaced and provided to Cen-
15 tral Valley Project water contractors by December 31,
16 2018, at the lowest cost reasonably achievable; and

17 “(h) to facilitate and expedite water transfers in ac-
18 cordance with this Act.”.

19 **SEC. 610. AMENDMENT TO DEFINITION.**

20 Section 3403 of the Central Valley Project Improve-
21 ment Act (106 Stat. 4707) is amended—

22 (1) by amending subsection (a) to read as fol-
23 lows:

24 “(a) the term ‘anadromous fish’ means those native
25 stocks of salmon (including steelhead) and sturgeon that,

1 as of October 30, 1992, were present in the Sacramento
 2 and San Joaquin Rivers and their tributaries and ascend
 3 those rivers and their tributaries to reproduce after matur-
 4 ing in San Francisco Bay or the Pacific Ocean;”;

5 (2) in subsection (l), by striking “and,”;

6 (3) in subsection (m), by striking the period
 7 and inserting “; and”; and

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

9 “(n) the term ‘reasonable flow’ means water flows ca-
 10 pable of being maintained taking into account competing
 11 consumptive uses of water and economic, environmental,
 12 and social factors.”.

13 **SEC. 611. REPORT ON RESULTS OF WATER USAGE.**

14 The Secretary of the Interior, in consultation with the
 15 Secretary of Commerce and the Secretary of Natural Re-
 16 sources of the State of California, shall publish an annual
 17 report detailing instream flow releases from the Central
 18 Valley Project and California State Water Project, their
 19 explicit purpose and authority, and all measured environ-
 20 mental benefit as a result of the releases.

21 **SEC. 612. KLAMATH PROJECT CONSULTATION APPLICANTS.**

22 If the Bureau of Reclamation initiates or reinitiates
 23 consultation with the U.S. Fish and Wildlife Service or
 24 the National Marine Fisheries Service under section
 25 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C.

1 1536(a)(2)), with respect to construction or operation of
 2 the Klamath Project (or any part thereof), Klamath
 3 Project contractors shall be accorded all the rights and
 4 responsibilities extended to applicants in the consultation
 5 process. Upon request of the Klamath Project contractors,
 6 they may be represented through an association or organi-
 7 zation.

8 **TITLE VII—WATER SUPPLY** 9 **PERMITTING ACT**

10 **SEC. 701. SHORT TITLE.**

11 This title may be cited as the “Water Supply Permit-
 12 ting Coordination Act”.

13 **SEC. 702. DEFINITIONS.**

14 In this title:

15 (1) SECRETARY.—The term “Secretary” means
 16 the Secretary of the Interior.

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

19 (3) QUALIFYING PROJECTS.—The term “quali-
 20 fying projects” means new surface water storage
 21 projects in the States covered under the Act of June
 22 17, 1902 (32 Stat. 388, chapter 1093), and Acts
 23 supplemental to and amendatory of that Act (43
 24 U.S.C. 371 et seq.) constructed on lands adminis-
 25 tered by the Department of the Interior or the De-

1 partment of Agriculture, exclusive of any easement,
2 right-of-way, lease, or any private holding.

3 (4) COOPERATING AGENCIES.—The term “co-
4 operating agency” means a Federal agency with ju-
5 risdiction over a review, analysis, opinion, statement,
6 permit, license, or other approval or decision re-
7 quired for a qualifying project under applicable Fed-
8 eral laws and regulations, or a State agency subject
9 to section 703(c).

10 **SEC. 703. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
11 **ATING AGENCIES.**

12 (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-
13 reau of Reclamation is established as the lead agency for
14 purposes of coordinating all reviews, analyses, opinions,
15 statements, permits, licenses, or other approvals or deci-
16 sions required under Federal law to construct qualifying
17 projects.

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

21 (1) identify, as early as practicable upon receipt
22 of an application for a qualifying project, any Fed-
23 eral agency that may have jurisdiction over a review,
24 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 title
2 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. 704. BUREAU RESPONSIBILITIES.**

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

14 (1) serve as the point of contact for applicants,
15 State agencies, Indian tribes, and others regarding
16 proposed qualifying projects;

17 (2) 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) coordinate all Federal agency reviews nec-
22 essary for project development and construction of
23 qualifying projects.

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

1 (1) PRE-APPLICATION 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 to—

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

11 (B) 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 one year after accept-
22 ance of a completed project application when an
23 environmental 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 one 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 705.

5 **SEC. 705. COOPERATING AGENCY RESPONSIBILITIES.**

6 (a) ADHERENCE TO BUREAU SCHEDULE.—Upon no-
7 tification of an application for a qualifying project, all co-
8 operating agencies shall submit to the Bureau a timeframe
9 under which the cooperating agency reasonably considers
10 it will be able to complete its authorizing responsibilities.
11 The Bureau shall use the timeframe submitted under this
12 subsection to establish the project schedule under section
13 704, and the cooperating agencies shall adhere to the
14 project schedule established by the Bureau.

15 (b) ENVIRONMENTAL RECORD.—Cooperating agen-
16 cies shall submit to the Bureau all environmental review
17 material produced or compiled in the course of carrying
18 out activities required under Federal law consistent with
19 the project schedule established by the Bureau.

20 (c) DATA SUBMISSION.—To the extent practicable
21 and consistent with Federal law, the cooperating agencies
22 shall submit all relevant project data to the Bureau in a
23 generally accessible electronic format subject to the project
24 schedule set forth by the Bureau.

1 **SEC. 706. FUNDING TO PROCESS PERMITS.**

2 (a) IN GENERAL.—The Secretary, after public notice
3 in accordance with the Administrative Procedures Act (5
4 U.S.C. 553), may accept and expend funds contributed by
5 a non-Federal public entity to expedite the evaluation of
6 a permit of that entity related to a qualifying project.

7 (b) EFFECT ON PERMITTING.—

8 (1) IN GENERAL.—In carrying out this section,
9 the Secretary shall ensure that the use of funds ac-
10 cepted under subsection (a) will not impact impartial
11 decisionmaking with respect to permits, either sub-
12 stantively or procedurally.

13 (2) EVALUATION OF PERMITS.—In carrying out
14 this section, the Secretary shall ensure that the eval-
15 uation of permits carried out using funds accepted
16 under this section shall—

17 (A) be reviewed by the Regional Director
18 of the Bureau, or the Regional Director's des-
19 ignee, of the region in which the qualifying
20 project or activity is located; and

21 (B) use the same procedures for decisions
22 that would otherwise be required for the evalua-
23 tion of permits for similar projects or activities
24 not carried out using funds authorized under
25 this section.

1 (3) IMPARTIAL DECISIONMAKING.—In carrying
2 out this section, the Secretary and the cooperating
3 agencies receiving funds under this section for quali-
4 fying projects shall ensure that the use of the funds
5 accepted under this section for such projects shall
6 not—

7 (A) impact impartial decisionmaking with
8 respect to the issuance of permits, either sub-
9 stantively or procedurally; or

10 (B) diminish, modify, or otherwise affect
11 the statutory or regulatory authorities of such
12 agencies.

13 (c) LIMITATION ON USE OF FUNDS.—None of the
14 funds accepted under this section shall be used to carry
15 out a review of the evaluation of permits required under
16 subsection (b)(2)(A).

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

1 **TITLE VIII—BUREAU OF REC-**
2 **LAMATION PROJECT STREAM-**
3 **LINING**

4 **SEC. 801. SHORT TITLE.**

5 This title may be cited as the “Bureau of Reclama-
6 tion Project Streamlining Act”.

7 **SEC. 802. DEFINITIONS.**

8 In this title:

9 (1) ENVIRONMENTAL IMPACT STATEMENT.—

10 The term “environmental impact statement” means
11 the detailed statement of environmental impacts of
12 a project required to be prepared pursuant to the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.).

15 (2) ENVIRONMENTAL REVIEW PROCESS.—

16 (A) IN GENERAL.—The term “environ-
17 mental review process” means the process of
18 preparing an environmental impact statement,
19 environmental assessment, categorical exclusion,
20 or other document under the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et
22 seq.) for a project study.

23 (B) INCLUSIONS.—The term “environ-
24 mental review process” includes the process for
25 and completion of any environmental permit,

1 approval, review, or study required for a project
2 study under any Federal law other than the
3 National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.).

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

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

14 (5) PROJECT.—The term “project” means a
15 surface water project, a project under the purview of
16 title XVI of Public Law 102–575, or a rural water
17 supply project investigated under Public Law 109–
18 451 to be carried out, funded or operated in whole
19 or in part by the Secretary pursuant to the Act of
20 June 17, 1902 (32 Stat. 388, chapter 1093), and
21 Acts supplemental to and amendatory of that Act
22 (43 U.S.C. 371 et seq.).

23 (6) PROJECT SPONSOR.—The term “project
24 sponsor” means a State, regional, or local authority
25 or instrumentality or other qualifying entity, such as

1 a water conservation district, irrigation district,
2 water conservancy district, joint powers authority,
3 mutual water company, canal company, rural water
4 district or association, or any other entity that has
5 the capacity to contract with the United States
6 under Federal reclamation law.

7 (7) PROJECT STUDY.—The term “project
8 study” means a feasibility study for a project carried
9 out pursuant to the Act of June 17, 1902 (32 Stat.
10 388, chapter 1093), and Acts supplemental to and
11 amendatory of that Act (43 U.S.C. 371 et seq.).

12 (8) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

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

21 **SEC. 803. ACCELERATION OF STUDIES.**

22 (a) IN GENERAL.—To the extent practicable, a
23 project study initiated by the Secretary, after the date of
24 enactment of this Act, under the Reclamation Act of 1902

1 (32 Stat. 388), and all Acts amendatory thereof or supple-
2 mentary thereto, shall—

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

6 (2) have a maximum Federal cost of
7 \$3,000,000; and

8 (3) ensure that personnel from the local project
9 area, region, and headquarters levels of the Bureau
10 of Reclamation concurrently conduct the review re-
11 quired under this section.

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

17 (1) prepare an updated project study schedule
18 and cost estimate;

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

21 (3) provide written notice to the Committee on
22 Natural Resources of the House of Representatives
23 and the Committee on Energy and Natural Re-
24 sources of the Senate as to the reasons the require-
25 ments of subsection (a) are not attainable.

1 (c) EXCEPTION.—

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

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

12 (A) the type, size, location, scope, and
13 overall cost of the project;

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

16 (C) whether the project will require signifi-
17 cant action by other Federal, State, or local
18 agencies;

19 (D) whether there is significant public dis-
20 pute as to the nature or effects of the project;
21 and

22 (E) whether there is significant public dis-
23 pute as to the economic or environmental costs
24 or benefits of the project.

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

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

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

18 (1) take all steps necessary to initiate the proc-
19 ess for completing federally mandated reviews that
20 the Secretary is required to complete as part of the
21 study, including the environmental review process
22 under section 805;

23 (2) convene a meeting of all Federal, tribal, and
24 State agencies identified under section 805(d) that
25 may—

1 (A) have jurisdiction over the project;

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

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

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

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

18 (1) the status of the implementation of the
19 planning process under this section, including the
20 number of participating projects;

21 (2) a review of project delivery schedules, in-
22 cluding a description of any delays on those studies
23 initiated prior to the date of the enactment of this
24 Act; and

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

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

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

13 (2) the amount of time taken to complete each
14 project study; and

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

21 **SEC. 804. EXPEDITED COMPLETION OF REPORTS.**

22 The Secretary shall—

23 (1) expedite the completion of any ongoing
24 project study initiated before the date of enactment
25 of this Act; and

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

7 **SEC. 805. PROJECT ACCELERATION.**

8 (a) APPLICABILITY.—

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

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

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

22 (C) any project study for the development
23 of a non-federally owned and operated surface
24 water storage project for which the Secretary

determines there is a demonstrable Federal interest and the project—

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

(ii) will create additional water supplies that support Bureau of Reclamation water projects; or

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

(2) FLEXIBILITY.—Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

(3) LIST OF PROJECT STUDIES.—

(A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a list of all project studies that the Secretary has determined—

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

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

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

9 (b) PROJECT REVIEW PROCESS.—

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

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

23 (3) TIMING.—The coordinated environmental
24 review process under this subsection shall be com-
25 pleted not later than the date on which the Sec-

1 retary, in consultation and concurrence with the
2 agencies identified under section 805(d), establishes
3 with respect to the project study.

4 (c) LEAD AGENCIES.—

5 (1) JOINT LEAD AGENCIES.—

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

14 (B) PROJECT SPONSOR AS JOINT LEAD
15 AGENCY.—A project sponsor that is a State or
16 local governmental entity may—

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

23 (ii) prepare any environmental review
24 process document under the National En-
25 vironmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.) required in support of any
2 action or approval by the Secretary if—

3 (I) the Secretary provides guid-
4 ance in the preparation process and
5 independently evaluates that docu-
6 ment;

7 (II) the project sponsor complies
8 with all requirements applicable to the
9 Secretary under—

10 (aa) the National Environ-
11 mental Policy Act of 1969 (42
12 U.S.C. 4321 et seq.);

13 (bb) any regulation imple-
14 menting that Act; and

15 (cc) any other applicable
16 Federal law; and

17 (III) the Secretary approves and
18 adopts the document before the Sec-
19 retary takes any subsequent action or
20 makes any approval based on that
21 document, regardless of whether the
22 action or approval of the Secretary re-
23 sults in Federal funding.

24 (2) DUTIES.—The Secretary shall ensure
25 that—

1 (A) the project sponsor complies with all
2 design and mitigation commitments made joint-
3 ly by the Secretary and the project sponsor in
4 any environmental document prepared by the
5 project sponsor in accordance with this sub-
6 section; and

7 (B) any environmental document prepared
8 by the project sponsor is appropriately supple-
9 mented to address any changes to the project
10 the Secretary determines are necessary.

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

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

20 (B) parts 1500 through 1508 of title 40,
21 Code of Federal Regulations (or successor regu-
22 lations).

23 (4) ROLES AND RESPONSIBILITY OF LEAD
24 AGENCY.—With respect to the environmental review

1 process for any project study, the Federal lead agen-
2 cy shall have authority and responsibility—

3 (A) to take such actions as are necessary
4 and proper and within the authority of the Fed-
5 eral lead agency to facilitate the expeditious
6 resolution of the environmental review process
7 for the project study; and

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

15 (d) PARTICIPATING AND COOPERATING AGENCIES.—

16 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
17 CIES.—With respect to carrying out the environ-
18 mental review process for a project study, the Sec-
19 retary shall identify, as early as practicable in the
20 environmental review process, all Federal, State, and
21 local government agencies and Indian tribes that
22 may—

23 (A) have jurisdiction over the project;

1 (B) be required by law to conduct or issue
2 a review, analysis, opinion, or statement for the
3 project study; or

4 (C) be required to make a determination
5 on issuing a permit, license, or other approval
6 or decision for the project study.

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

13 (A) have jurisdiction over the project;

14 (B) are required to conduct or issue a re-
15 view, analysis, opinion, or statement for the
16 project study; or

17 (C) are required to make a determination
18 on issuing a permit, license, or other approval
19 or decision for the project study.

20 (3) INVITATION.—

21 (A) IN GENERAL.—The Federal lead agen-
22 cy shall invite, as early as practicable in the en-
23 vironmental review process, any agency identi-
24 fied under paragraph (1) to become a partici-
25 pating or cooperating agency, as applicable, in

1 the environmental review process for the project
2 study.

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

8 (4) PROCEDURES.—Section 1501.6 of title 40,
9 Code of Federal Regulations (as in effect on the
10 date of enactment of the Bureau of Reclamation
11 Project Streamlining Act) shall govern the identi-
12 fication and the participation of a cooperating agen-
13 cy.

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

22 (A)(i) has no jurisdiction or authority with
23 respect to the project;

24 (ii) has no expertise or information rel-
25 evant to the project; or

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

3 (B) does not intend to submit comments
4 on the project.

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

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

12 (A) supports a proposed project; or

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

16 (8) CONCURRENT REVIEWS.—Each partici-
17 pating or cooperating agency shall—

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

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

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

12 (f) NON-FEDERAL PROJECT.—If the Secretary deter-
13 mines that a project can be expedited by a non-Federal
14 sponsor and that there is a demonstrable Federal interest
15 in expediting that project, the Secretary shall take such
16 actions as are necessary to advance such a project as a
17 non-Federal project, including, but not limited to, entering
18 into agreements with the non-Federal sponsor of such
19 project to support the planning, design and permitting of
20 such project as a non-Federal project.

21 (g) PROGRAMMATIC COMPLIANCE.—

22 (1) IN GENERAL.—The Secretary shall issue
23 guidance regarding the use of programmatic ap-
24 proaches to carry out the environmental review proc-
25 ess that—

1 (A) eliminates repetitive discussions of the
2 same issues;

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

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

10 (D) complies with—

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

13 (ii) all other applicable laws.

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

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

22 (B) emphasize the importance of collabora-
23 tion among relevant Federal, State, and local
24 governmental agencies, and Indian tribes in un-
25 dertaking programmatic reviews, especially with

1 respect to including reviews with a broad geo-
2 graphical scope;

3 (C) ensure that the programmatic re-
4 views—

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

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

16 (I) criteria for determining the
17 general duration of the usefulness of
18 the review; and

19 (II) the timeline for updating any
20 out-of-date review;

21 (iii) describe—

22 (I) the relationship between pro-
23 grammatic analysis and future tiered
24 analysis; and

- 1 (II) the role of the public in the
2 creation of future tiered analysis; and
3 (iv) are available to other relevant
4 Federal, State, and local governmental
5 agencies, Indian tribes, and the public;
6 (D) allow not fewer than 60 days of public
7 notice and comment on any proposed guidance;
8 and
9 (E) address any comments received under
10 subparagraph (D).

11 (h) COORDINATED REVIEWS.—

12 (1) COORDINATION PLAN.—

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

22 (B) SCHEDULE.—

23 (i) IN GENERAL.—As soon as prac-
24 ticable but not later than 45 days after the
25 close of the public comment period on a

1 draft environmental impact statement, the
2 Federal lead agency, after consultation
3 with and the concurrence of each partici-
4 pating and cooperating agency and the
5 project sponsor or joint lead agency, as ap-
6 plicable, shall establish, as part of the co-
7 ordination plan established in subpara-
8 graph (A), a schedule for completion of the
9 environmental review process for the
10 project study.

11 (ii) FACTORS FOR CONSIDERATION.—

12 In establishing a schedule, the Secretary
13 shall consider factors such as—

14 (I) the responsibilities of partici-
15 pating and cooperating agencies under
16 applicable laws;

17 (II) the resources available to the
18 project sponsor, joint lead agency, and
19 other relevant Federal and State
20 agencies, as applicable;

21 (III) the overall size and com-
22 plexity of the project;

23 (IV) the overall schedule for and
24 cost of the project; and

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

4 (iii) MODIFICATIONS.—The Secretary
5 may—

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

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

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

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

21 (II) made available to the public.

22 (2) COMMENT DEADLINES.—The Federal lead
23 agency shall establish the following deadlines for
24 comment during the environmental review process
25 for a project study:

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

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

14 (ii) the deadline is extended by the
15 Federal lead agency for good cause.

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

24 (i) a different deadline is established
25 by agreement of the Federal lead agency,

1 the project sponsor, or joint lead agency,
2 as applicable, and all participating and co-
3 operating agencies; or

4 (ii) the deadline is extended by the
5 Federal lead agency for good cause.

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

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

19 (B) every 60 days thereafter until such
20 date as all decisions of the Federal agency re-
21 lating to the project study have been made by
22 the Federal agency, an additional notice that
23 describes the number of decisions of the Fed-
24 eral agency that remain outstanding as of the
25 date of the additional notice.

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

6 (5) TRANSPARENCY REPORTING.—

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

20 (B) PROJECT STUDY TRANSPARENCY.—

21 Consistent with the requirements established
22 under subparagraph (A), the Secretary shall
23 make publicly available the status and progress
24 of any Federal, State, or local decision, action,
25 or approval required under applicable laws for

1 each project study for which this section is ap-
2 plicable.

3 (i) ISSUE IDENTIFICATION AND RESOLUTION.—

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

11 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
12 ITIES.—

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

21 (B) DATA SOURCES.—The information
22 under subparagraph (A) may be based on exist-
23 ing data sources, including geographic informa-
24 tion systems mapping.

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

11 (4) ACCELERATED ISSUE RESOLUTION AND
12 ELEVATION.—

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

20 (i) delay completion of the environ-
21 mental review process; or

22 (ii) result in denial of any approval re-
23 quired for the project study under applica-
24 ble laws.

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

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

13 (D) ELEVATION OF ISSUE RESOLUTION.—
14 If a resolution cannot be achieved within the
15 30-day period beginning on the date of a meet-
16 ing under this paragraph and a determination
17 is made by the Secretary that all information
18 necessary to resolve the issue has been ob-
19 tained, the Secretary shall forward the dispute
20 to the heads of the relevant agencies for resolu-
21 tion.

22 (E) CONVENTION BY SECRETARY.—The
23 Secretary may convene an issue resolution
24 meeting under this paragraph at any time, at
25 the discretion of the Secretary, regardless of

1 whether a meeting is requested under subpara-
2 graph (A).

3 (5) FINANCIAL PENALTY PROVISIONS.—

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

9 (B) FAILURE TO DECIDE.—

10 (i) IN GENERAL.—

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

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

10 (II) AMOUNT TO BE TRANS-
11 FERRED.—The amount referred to in
12 subclause (I) is—

13 (aa) \$20,000 for any project
14 study requiring the preparation
15 of an environmental assessment
16 or environmental impact state-
17 ment; or

18 (bb) \$10,000 for any project
19 study requiring any type of re-
20 view under the National Environ-
21 mental Policy Act of 1969 (42
22 U.S.C. 4321 et seq.) other than
23 an environmental assessment or
24 environmental impact statement.

1 (ii) DESCRIPTION OF DATE.—The
2 date referred to in clause (i) is the later
3 of—

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

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

14 (C) LIMITATIONS.—

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

21 (ii) FAILURE TO DECIDE.—The total
22 amount transferred in a fiscal year as a re-
23 sult of a failure by an agency to make a
24 decision by an applicable deadline shall not
25 exceed an amount equal to 5 percent of the

1 funds made available for the applicable
2 agency office for that fiscal year.

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

16 (D) NOTIFICATION OF TRANSFERS.—Not
17 later than 10 days after the last date in a fiscal
18 year on which funds of the Federal jurisdic-
19 tional agency may be transferred under sub-
20 paragraph (B)(5) with respect to an individual
21 decision, the agency shall submit to the appro-
22 priate committees of the House of Representa-
23 tives and the Senate written notification that
24 includes a description of—

25 (i) the decision;

1 (ii) the project study involved;

2 (iii) the amount of each transfer
3 under subparagraph (B) in that fiscal year
4 relating to the decision;

5 (iv) the total amount of all transfers
6 under subparagraph (B) in that fiscal year
7 relating to the decision; and

8 (v) the total amount of all transfers of
9 the agency under subparagraph (B) in that
10 fiscal year.

11 (E) NO FAULT OF AGENCY.—

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

19 (I) the agency has not received
20 necessary information or approvals
21 from another entity in a manner that
22 affects the ability of the agency to
23 meet any requirements under Federal,
24 State, or local law;

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

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

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

22 (I) conduct a financial audit to
23 review the notice; and

24 (II) not later than 90 days after
25 the date on which the review described

1 in subclause (I) is completed, submit
2 to the Committee on Natural Re-
3 sources of the House of Representa-
4 tives and the Committee on Energy
5 and Natural Resources of the Senate
6 the results of the audit conducted
7 under subclause (I).

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

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

18 (j) MEMORANDUM OF AGREEMENTS FOR EARLY CO-
19 ORDINATION.—

20 (1) SENSE OF CONGRESS.—It is the sense of
21 Congress that—

22 (A) the Secretary and other Federal agen-
23 cies with relevant jurisdiction in the environ-
24 mental review process should cooperate with
25 each other, State and local agencies, and Indian

1 tribes on environmental review and Bureau of
2 Reclamation project delivery activities at the
3 earliest practicable time to avoid delays and du-
4 plication of effort later in the process, prevent
5 potential conflicts, and ensure that planning
6 and project development decisions reflect envi-
7 ronmental values; and

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

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

24 (3) MEMORANDUM OF AGENCY AGREEMENT.—
25 If requested at any time by a State or project spon-

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

10 (k) LIMITATIONS.—Nothing in this section preempts
11 or interferes with—

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

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

16 (B) any other Federal environmental law;

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

20 (3) any requirement for seeking, considering, or
21 responding to public comment; or

22 (4) any power, jurisdiction, responsibility, duty,
23 or authority that a Federal, State, or local govern-
24 mental agency, Indian tribe, or project sponsor has

1 with respect to carrying out a project or any other
2 provision of law applicable to projects.

3 (l) TIMING OF CLAIMS.—

4 (1) TIMING.—

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

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

22 (2) NEW INFORMATION.—

23 (A) IN GENERAL.—The Secretary shall
24 consider new information received after the
25 close of a comment period if the information

1 satisfies the requirements for a supplemental
2 environmental impact statement under title 40,
3 Code of Federal Regulations (including suc-
4 cessor regulations).

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

16 (m) CATEGORICAL EXCLUSIONS.—

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

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

23 (B) publish a review of the survey that in-
24 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 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 successor regula-
11 tions), 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. 806. ANNUAL REPORT TO CONGRESS.**

20 (a) IN GENERAL.—Not later than February 1 of each
21 year, the Secretary shall develop and submit to the Com-
22 mittee on Natural Resources of the House of Representa-
23 tives and the Committee on Energy and Natural Re-
24 sources of the Senate an annual report, to be entitled “Re-

1 port to Congress on Future Water Project Development”,
2 that identifies the following:

3 (1) PROJECT REPORTS.—Each project report
4 that meets the criteria established in subsection
5 (c)(1)(A).

6 (2) PROPOSED PROJECT STUDIES.—Any pro-
7 posed project study submitted to the Secretary by a
8 non-Federal interest pursuant to subsection (b) that
9 meets the criteria established in subsection
10 (c)(1)(A).

11 (3) PROPOSED MODIFICATIONS.—Any proposed
12 modification to an authorized water project or
13 project study that meets the criteria established in
14 subsection (c)(1)(A) that—

15 (A) is submitted to the Secretary by a non-
16 Federal interest pursuant to subsection (b); or

17 (B) is identified by the Secretary for au-
18 thorization.

19 (4) EXPEDITED COMPLETION OF REPORT AND
20 DETERMINATIONS.—Any project study that was ex-
21 pedited and any Secretarial determinations under
22 section 804.

23 (b) REQUESTS FOR PROPOSALS.—

24 (1) PUBLICATION.—Not later than May 1 of
25 each year, the Secretary shall publish in the Federal

1 Register a notice requesting proposals from non-
2 Federal interests for proposed project studies and
3 proposed modifications to authorized projects and
4 project studies to be included in the annual report.

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

13 (3) NOTIFICATION.—On the date of publication
14 of each notice required by this subsection, the Sec-
15 retary shall—

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

18 (B) provide written notification of the pub-
19 lication to the Committee on Natural Resources
20 of the House of Representatives and the Com-
21 mittee on Energy and Natural Resources of the
22 Senate.

23 (c) CONTENTS.—

24 (1) PROJECT REPORTS, PROPOSED PROJECT
25 STUDIES, AND PROPOSED MODIFICATIONS.—

1 (A) CRITERIA FOR INCLUSION IN RE-
2 PORT.—The Secretary shall include in the an-
3 nual report only those project reports, proposed
4 project studies, and proposed modifications to
5 authorized projects and project studies that—

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

8 (ii) require specific congressional au-
9 thorization, including by an Act of Con-
10 gress;

11 (iii) have not been congressionally au-
12 thorized;

13 (iv) have not been included in any
14 previous annual report; and

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

17 (B) DESCRIPTION OF BENEFITS.—

18 (i) DESCRIPTION.—The Secretary
19 shall describe in the annual report, to the
20 extent applicable and practicable, for each
21 proposed project study and proposed modi-
22 fication to an authorized water resources
23 development project or project study in-
24 cluded in the annual report, the benefits,

as described in clause (ii), of each such study or proposed modification.

(ii) BENEFITS.—The benefits (or expected benefits, in the case of a proposed project study) described in this clause are benefits to—

(I) the protection of human life and property;

(II) improvement to domestic irrigated water and power supplies;

(III) the national economy;

(IV) the environment; or

(V) the national security interests of the United States.

(C) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—

(i) for each proposed project study included in the annual report, the non-Federal interest that submitted the proposed project study pursuant to subsection (b); and

(ii) for each proposed project study and proposed modification to a project or project study included in the annual re-

1 port, whether the non-Federal interest has
2 demonstrated—

3 (I) that local support exists for
4 the proposed project study or pro-
5 posed modification to an authorized
6 project or project study (including the
7 surface water storage development
8 project that is the subject of the pro-
9 posed feasibility study or the proposed
10 modification to an authorized project
11 study); and

12 (II) the financial ability to pro-
13 vide the required non-Federal cost
14 share.

15 (2) TRANSPARENCY.—The Secretary shall in-
16 clude in the annual report, for each project report,
17 proposed project study, and proposed modification to
18 a project or project study included under paragraph
19 (1)(A)—

20 (A) the name of the associated non-Fed-
21 eral interest, including the name of any non-
22 Federal interest that has contributed, or is ex-
23 pected to contribute, a non-Federal share of the
24 cost of—

25 (i) the project report;

- 1 (ii) the proposed project study;
- 2 (iii) the authorized project study for
- 3 which the modification is proposed; or
- 4 (iv) construction of—
 - 5 (I) the project that is the subject
 - 6 of—
 - 7 (aa) the water report;
 - 8 (bb) the proposed project
 - 9 study; or
 - 10 (cc) the authorized project
 - 11 study for which a modification is
 - 12 proposed; or
 - 13 (II) the proposed modification to
 - 14 a project;
 - 15 (B) a letter or statement of support for the
 - 16 water report, proposed project study, or pro-
 - 17 posed modification to a project or project study
 - 18 from each associated non-Federal interest;
 - 19 (C) the purpose of the feasibility report,
 - 20 proposed feasibility study, or proposed modi-
 - 21 fication to a project or project study;
 - 22 (D) an estimate, to the extent practicable,
 - 23 of the Federal, non-Federal, and total costs
 - 24 of—

1 (i) the proposed modification to an
2 authorized project study; and

3 (ii) construction of—

4 (I) the project that is the subject
5 of—

6 (aa) the project report; or

7 (bb) the authorized project
8 study for which a modification is
9 proposed, with respect to the
10 change in costs resulting from
11 such modification; or

12 (II) the proposed modification to
13 an authorized project; and

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

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

17 (I) the project report; or

18 (II) the authorized project study
19 for which a modification is proposed,
20 with respect to the benefits of such
21 modification; or

22 (ii) the proposed modification to an
23 authorized project.

24 (3) CERTIFICATION.—The Secretary shall in-
25 clude in the annual report a certification stating

1 that each feasibility report, proposed feasibility
2 study, and proposed modification to a project or
3 project study included in the annual report meets
4 the criteria established in paragraph (1)(A).

5 (4) APPENDIX.—The Secretary shall include in
6 the annual report an appendix listing the proposals
7 submitted under subsection (b) that were not in-
8 cluded in the annual report under paragraph (1)(A)
9 and a description of why the Secretary determined
10 that those proposals did not meet the criteria for in-
11 clusion under such paragraph.

12 (d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—

13 Notwithstanding any other deadlines required by this sec-
14 tion, the Secretary shall—

15 (1) not later than 60 days after the date of en-
16 actment of this Act, publish in the Federal Register
17 a notice required by subsection (b)(1); and

18 (2) include in such notice a requirement that
19 non-Federal interests submit to the Secretary any
20 proposals described in subsection (b)(1) by not later
21 than 120 days after the date of publication of such
22 notice in the Federal Register in order for such pro-
23 posals to be considered for inclusion in the first an-
24 nual report developed by the Secretary under this
25 section.

1 (e) PUBLICATION.—Upon submission of an annual
 2 report to Congress, the Secretary shall make the annual
 3 report publicly available, including through publication on
 4 the Internet.

5 (f) DEFINITION.—In this section, the term “project
 6 report” means a final feasibility report developed under
 7 the Reclamation Act of 1902 (32 Stat. 388), and all Acts
 8 amendatory thereof or supplementary thereto.

9 **TITLE IX—ACCELERATED REV-**
 10 **ENUE, REPAYMENT, AND SUR-**
 11 **FACE WATER STORAGE EN-**
 12 **HANCEMENT**

13 **SEC. 901. SHORT TITLE.**

14 This title may be cited as the “Accelerated Revenue,
 15 Repayment, and Surface Water Storage Enhancement
 16 Act”.

17 **SEC. 902. PREPAYMENT OF CERTAIN REPAYMENT CON-**
 18 **TRACTS BETWEEN THE UNITED STATES AND**
 19 **CONTRACTORS OF FEDERALLY DEVELOPED**
 20 **WATER SUPPLIES.**

21 (a) CONVERSION AND PREPAYMENT OF CON-
 22 TRACTS.—

23 (1) CONVERSION.—Upon request of the con-
 24 tractor, the Secretary of the Interior shall convert
 25 any water service contract in effect on the date of

1 enactment of this Act and between the United
2 States and a water users' association to allow for
3 prepayment of the repayment contract pursuant to
4 paragraph (2) under mutually agreeable terms and
5 conditions. The manner of conversion under this
6 paragraph shall be as follows:

7 (A) Water service contracts that were en-
8 tered into under section 9(e) of the Act of Au-
9 gust 4, 1939 (53 Stat. 1196), to be converted
10 under this section shall be converted to repay-
11 ment contracts under section 9(d) of that Act
12 (53 Stat. 1195).

13 (B) Water service contracts that were en-
14 tered under subsection (c)(2) of section 9 of the
15 Act of August 4, 1939 (53 Stat. 1194), to be
16 converted under this section shall be converted
17 to a contract under subsection (c)(1) of section
18 9 of that Act (53 Stat. 1195).

19 (2) PREPAYMENT.—Except for those repayment
20 contracts under which the contractor has previously
21 negotiated for prepayment, all repayment contracts
22 under section 9(d) of that Act (53 Stat. 1195) in ef-
23 fect on the date of enactment of this Act at the re-
24 quest of the contractor, and all contracts converted
25 pursuant to paragraph (1)(A) shall—

1 (A) provide for the repayment, either in
2 lump sum or by accelerated prepayment, of the
3 remaining construction costs identified in water
4 project specific irrigation rate repayment sched-
5 ules, as adjusted to reflect payment not re-
6 flected in such schedule, and properly assign-
7 able for ultimate return by the contractor, or if
8 made in approximately equal installments, no
9 later than 3 years after the effective date of the
10 repayment contract, such amount to be dis-
11 counted by $\frac{1}{2}$ the Treasury rate. An estimate
12 of the remaining construction costs, as ad-
13 justed, shall be provided by the Secretary to the
14 contractor no later than 90 days following re-
15 ceipt of request of the contractor;

16 (B) require that construction costs or
17 other capitalized costs incurred after the effec-
18 tive date of the contract or not reflected in the
19 rate schedule referenced in subparagraph (A),
20 and properly assignable to such contractor shall
21 be repaid in not more than 5 years after notifi-
22 cation of the allocation if such amount is a re-
23 sult of a collective annual allocation of capital
24 costs to the contractors exercising contract con-
25 versation under this subsection of less than

1 \$5,000,000. If such amount is \$5,000,000 or
2 greater, such cost shall be repaid as provided by
3 applicable reclamation law;

4 (C) provide that power revenues will not be
5 available to aid in repayment of construction
6 costs allocated to irrigation under the contract;
7 and

8 (D) continue so long as the contractor
9 pays applicable charges, consistent with section
10 9(d) of the Act of August 4, 1939 (53 Stat.
11 1195), and applicable law.

12 (3) CONTRACT REQUIREMENTS.—Except for
13 those repayment contracts under which the con-
14 tractor has previously negotiated for prepayment,
15 the following shall apply with regard to all repay-
16 ment contracts under subsection (c)(1) of section 9
17 of that Act (53 Stat. 1195) in effect on the date of
18 enactment of this Act at the request of the con-
19 tractor, and all contracts converted pursuant to
20 paragraph (1)(B):

21 (A) Provide for the repayment in lump
22 sum of the remaining construction costs identi-
23 fied in water project specific municipal and in-
24 dustrial rate repayment schedules, as adjusted
25 to reflect payments not reflected in such sched-

1 ule, and properly assignable for ultimate return
2 by the contractor. An estimate of the remaining
3 construction costs, as adjusted, shall be pro-
4 vided by the Secretary to the contractor no
5 later than 90 days after receipt of request of
6 contractor.

7 (B) The contract shall require that con-
8 struction costs or other capitalized costs in-
9 curred after the effective date of the contract or
10 not reflected in the rate schedule referenced in
11 subparagraph (A), and properly assignable to
12 such contractor, shall be repaid in not more
13 than 5 years after notification of the allocation
14 if such amount is a result of a collective annual
15 allocation of capital costs to the contractors ex-
16 ercising contract conversation under this sub-
17 section of less than \$5,000,000. If such amount
18 is \$5,000,000 or greater, such cost shall be re-
19 paid as provided by applicable reclamation law.

20 (C) Continue so long as the contractor
21 pays applicable charges, consistent with section
22 9(c)(1) of the Act of August 4, 1939 (53 Stat.
23 1195), and applicable law.

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

1 (A) not be adjusted on the basis of the
2 type of prepayment financing used by the water
3 users' association;

4 (B) conform to any other agreements, such
5 as applicable settlement agreements and new
6 constructed appurtenant facilities; and

7 (C) not modify other water service, repay-
8 ment, exchange and transfer contractual rights
9 between the water users' association, and the
10 Bureau of Reclamation, or any rights, obliga-
11 tions, or relationships of the water users' asso-
12 ciation and their landowners as provided under
13 State law.

14 (b) ACCOUNTING.—The amounts paid pursuant to
15 subsection (a) shall be subject to adjustment following a
16 final cost allocation by the Secretary of the Interior. In
17 the event that the final cost allocation indicates that the
18 costs properly assignable to the contractor are greater
19 than what has been paid by the contractor, the contractor
20 shall be obligated to pay the remaining allocated costs.
21 The term of such additional repayment contract shall be
22 not less than one year and not more than 10 years, how-
23 ever, mutually agreeable provisions regarding the rate of
24 repayment of such amount may be developed by the par-
25 ties. In the event that the final cost allocation indicates

1 that the costs properly assignable to the contractor are
2 less than what the contractor has paid, the Secretary shall
3 credit such overpayment as an offset against any out-
4 standing or future obligation of the contractor.

5 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

6 (1) EFFECT OF EXISTING LAW.—Upon a con-
7 tractor's compliance with and discharge of the obli-
8 gation of repayment of the construction costs pursu-
9 ant to a contract entered into pursuant to subsection
10 (a)(2)(A), subsections (a) and (b) of section 213 of
11 the Reclamation Reform Act of 1982 (96 Stat.
12 1269) shall apply to affected lands.

13 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
14 ligation of a contractor to repay construction costs
15 or other capitalized costs described in subsection
16 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
17 tractor's status as having repaid all of the construc-
18 tion costs assignable to the contractor or the appli-
19 cability of subsections (a) and (b) of section 213 of
20 the Reclamation Reform Act of 1982 (96 Stat.
21 1269) once the amount required to be paid by the
22 contractor under the repayment contract entered
23 into pursuant to subsection (a)(2)(A) have been
24 paid.

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

3 (1) the repayment obligation of any water serv-
 4 ice or repayment contractor receiving water from the
 5 same water project, or shift any costs that would
 6 otherwise have been properly assignable to the water
 7 users' association identified in subsections (a)(1),
 8 (a)(2), and (a)(3) absent this section, including op-
 9 eration and maintenance costs, construction costs, or
 10 other capitalized costs incurred after the date of the
 11 enactment of this Act, or to other contractors; and

12 (2) specific requirements for the disposition of
 13 amounts received as repayments by the Secretary
 14 under the Act of June 17, 1902 (32 Stat. 388, chap-
 15 ter 1093), and Acts supplemental to and amend-
 16 atory of that Act (43 U.S.C. 371 et seq.).

17 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-
 18 GRAM.—

19 (1) IN GENERAL.—Except as provided in sub-
 20 section (d)(2), three years following the date of en-
 21 actment of this Act, 50 percent of receipts generated
 22 from prepayment of contracts under this section be-
 23 yond amounts necessary to cover the amount of re-
 24 ceipts forgone from scheduled payments under cur-
 25 rent law for the 10-year period following the date of

1 enactment of this Act shall be directed to the Rec-
2 lamation Surface Water Storage Account under
3 paragraph (2).

4 (2) SURFACE STORAGE ACCOUNT.—The Sec-
5 retary shall allocate amounts collected under para-
6 graph (1) into the “Reclamation Surface Storage
7 Account” to fund the construction of surface water
8 storage. The Secretary may also enter into coopera-
9 tive agreements with water users’ associations for
10 the construction of surface water storage and
11 amounts within the Surface Storage Account may be
12 used to fund such construction. Surface water stor-
13 age projects that are otherwise not federally author-
14 ized shall not be considered Federal facilities as a
15 result of any amounts allocated from the Surface
16 Storage Account for part or all of such facilities.

17 (3) REPAYMENT.—Amounts used for surface
18 water storage construction from the Account shall be
19 fully reimbursed to the Account consistent with the
20 requirements under Federal reclamation law (the
21 law (the Act of June 17, 1902 (32 Stat. 388, chap-
22 ter 1093))), and Acts supplemental to and amend-
23 atory of that Act (43 U.S.C. 371 et seq.) except that
24 all funds reimbursed shall be deposited in the Ac-
25 count established under paragraph (2).

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

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

5 (B) be in addition to amounts appropriated
6 for such purposes under any other provision of
7 law.

8 (5) PURPOSES OF SURFACE WATER STORAGE.—
9 Construction of surface water storage under this sec-
10 tion shall be made for the following purposes:

11 (A) Increased municipal and industrial
12 water supply.

13 (B) Agricultural floodwater, erosion, and
14 sedimentation reduction.

15 (C) Agricultural drainage improvements.

16 (D) Agricultural irrigation.

17 (E) Increased recreation opportunities.

18 (F) Reduced adverse impacts to fish and
19 wildlife from water storage or diversion projects
20 within watersheds associated with water storage
21 projects funded under this section.

22 (G) Any other purposes consistent with
23 reclamation laws or other Federal law.

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

1 (1) ACCOUNT.—The term “Account” means the
2 Reclamation Surface Water Storage Account estab-
3 lished under subsection (e)(2).

4 (2) CONSTRUCTION.—The term “construction”
5 means the designing, materials engineering and test-
6 ing, surveying, and building of surface water storage
7 including additions to existing surface water storage
8 and construction of new surface water storage facili-
9 ties, exclusive of any Federal statutory or regulatory
10 obligations relating to any permit, review, approval,
11 or other such requirement.

12 (3) SURFACE WATER STORAGE.—The term
13 “surface water storage” means any federally owned
14 facility under the jurisdiction of the Bureau of Rec-
15 lamation or any non-Federal facility used for the
16 surface storage and supply of water resources.

17 (4) TREASURY RATE.—The term “Treasury
18 rate” means the 20-year Constant Maturity Treas-
19 ury (CMT) rate published by the United States De-
20 partment of the Treasury existing on the effective
21 date of the contract.

22 (5) WATER USERS’ ASSOCIATION.—The term
23 “water users’ association” means—

24 (A) an entity organized and recognized
25 under State laws that is eligible to enter into

1 contracts with reclamation to receive contract
2 water for delivery to and users of the water and
3 to pay applicable charges; and

4 (B) includes a variety of entities with dif-
5 ferent names and differing functions, such as
6 associations, conservatory district, irrigation
7 district, municipality, and water project con-
8 tract unit.

9 **TITLE X—SAFETY OF DAMS**

10 **SEC. 1001. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 11 **EFITS.**

12 The Reclamation Safety of Dams Act of 1978 is
13 amended—

14 (1) in section 3, by striking “Construction” and
15 inserting “Except as provided in section 5B, con-
16 struction”; and

17 (2) by inserting after section 5A (43 U.S.C.
18 509) the following:

19 **“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 20 **EFITS.**

21 “Notwithstanding section 3, if the Secretary deter-
22 mines that additional project benefits, including but not
23 limited to additional conservation storage capacity, are
24 feasible and not inconsistent with the purposes of this Act,
25 the Secretary is authorized to develop additional project

1 benefits through the construction of new or supplementary
2 works on a project in conjunction with the Secretary's ac-
3 tivities under section 2 of this Act and subject to the con-
4 ditions described in the feasibility study, provided—

5 “(1) the Secretary determines that developing
6 additional project benefits through the construction
7 of new or supplementary works on a project will pro-
8 mote more efficient management of water and
9 water-related facilities;

10 “(2) the feasibility study pertaining to addi-
11 tional project benefits has been authorized pursuant
12 to section 8 of the Federal Water Project Recreation
13 Act of 1965 (16 U.S.C. 4601–18); and

14 “(3) the costs associated with developing the
15 additional project benefits are agreed to in writing
16 between the Secretary and project proponents and
17 shall be allocated to the authorized purposes of the
18 structure and repaid consistent with all provisions of
19 Federal Reclamation law (the Act of June 17, 1902,
20 43 U.S.C. 371 et seq.) and Acts supplemental to
21 and amendatory of that Act.”.

1 **TITLE XI—WATER RIGHTS**
2 **PROTECTION**

3 **SEC. 1101. SHORT TITLE.**

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

6 **SEC. 1102. DEFINITION OF WATER RIGHT.**

7 In this title, the term “water right” means any sur-
8 face or groundwater right filed, permitted, certified, con-
9 firmed, decreed, adjudicated, or otherwise recognized by
10 a judicial proceeding or by the State in which the user
11 acquires possession of the water or puts the water to bene-
12 ficial use, including water rights for federally recognized
13 Indian tribes.

14 **SEC. 1103. TREATMENT OF WATER RIGHTS.**

15 The Secretary of the Interior and the Secretary of
16 Agriculture shall not—

17 (1) condition or withhold, in whole or in part,
18 the issuance, renewal, amendment, or extension of
19 any permit, approval, license, lease, allotment, ease-
20 ment, right-of-way, or other land use or occupancy
21 agreement on—

22 (A) limitation or encumbrance of any
23 water right, or the transfer of any water right
24 (including joint and sole ownership), directly or

1 indirectly to the United States or any other des-
2 ignee; or

3 (B) any other impairment of any water
4 right, in whole or in part, granted or otherwise
5 recognized under State law, by Federal or State
6 adjudication, decree, or other judgment, or pur-
7 suant to any interstate water compact;

8 (2) require any water user (including any feder-
9 ally recognized Indian tribe) to apply for or acquire
10 a water right in the name of the United States
11 under State law as a condition of the issuance, re-
12 newal, amendment, or extension of any permit, ap-
13 proval, license, lease, allotment, easement, right-of-
14 way, or other land use or occupancy agreement;

15 (3) assert jurisdiction over groundwater with-
16 drawals or impacts on groundwater resources, unless
17 jurisdiction is asserted, and any regulatory or policy
18 actions taken pursuant to such assertion are, con-
19 sistent with, and impose no greater restrictions or
20 regulatory requirements than, applicable State laws
21 (including regulations) and policies governing the
22 protection and use of groundwater resources; or

23 (4) infringe on the rights and obligations of a
24 State in evaluating, allocating, and adjudicating the
25 waters of the State originating on or under, or flow-

1 ing from, land owned or managed by the Federal
2 Government.

3 **SEC. 1104. RECOGNITION OF STATE AUTHORITY.**

4 (a) IN GENERAL.—In carrying out section 1103, the
5 Secretary of the Interior and the Secretary of Agriculture
6 shall—

7 (1) recognize the longstanding authority of the
8 States relating to evaluating, protecting, allocating,
9 regulating, and adjudicating groundwater by any
10 means, including a rulemaking, permitting, directive,
11 water court adjudication, resource management
12 planning, regional authority, or other policy; and

13 (2) coordinate with the States in the adoption
14 and implementation by the Secretary of the Interior
15 or the Secretary of Agriculture of any rulemaking,
16 policy, directive, management plan, or other similar
17 Federal action so as to ensure that such actions are
18 consistent with, and impose no greater restrictions
19 or regulatory requirements than, State groundwater
20 laws and programs.

21 (b) EFFECT ON STATE WATER RIGHTS.—In carrying
22 out this title, the Secretary of the Interior and the Sec-
23 retary of Agriculture shall not take any action that ad-
24 versely affects—

25 (1) any water rights granted by a State;

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

3 (3) definitions established by a State with re-
4 spect to the term “beneficial use”, “priority of water
5 rights”, or “terms of use”;

6 (4) terms and conditions of groundwater with-
7 drawal, guidance and reporting procedures, and con-
8 servation and source protection measures established
9 by a State;

10 (5) the use of groundwater in accordance with
11 State law; or

12 (6) any other rights and obligations of a State
13 established under State law.

14 **SEC. 1105. EFFECT OF TITLE.**

15 (a) EFFECT ON EXISTING AUTHORITY.—Nothing in
16 this title limits or expands any existing legally recognized
17 authority of the Secretary of the Interior or the Secretary
18 of Agriculture to issue, grant, or condition any permit, ap-
19 proval, license, lease, allotment, easement, right-of-way, or
20 other land use or occupancy agreement on Federal land
21 subject to the jurisdiction of the Secretary of the Interior
22 or the Secretary of Agriculture, respectively.

23 (b) EFFECT ON RECLAMATION CONTRACTS.—Noth-
24 ing in this title interferes with Bureau of Reclamation con-
25 tracts entered into pursuant to the reclamation laws.

1 (c) EFFECT ON ENDANGERED SPECIES ACT.—Noth-
2 ing in this title affects the implementation of the Endan-
3 gered Species Act of 1973 (16 U.S.C. 1531 et seq.).

4 (d) EFFECT ON FEDERAL RESERVED WATER
5 RIGHTS.—Nothing in this title limits or expands any exist-
6 ing or claimed reserved water rights of the Federal Gov-
7 ernment on land administered by the Secretary of the In-
8 terior or the Secretary of Agriculture.

9 (e) EFFECT ON FEDERAL POWER ACT.—Nothing in
10 this title limits or expands authorities under sections 4(e),
11 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),
12 803(j), 811).

13 (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in
14 this title limits or expands any water right or treaty right
15 of any federally recognized Indian tribe.

Passed the House of Representatives July 16, 2015.

Attest:

KAREN L. HAAS,

Clerk.

114TH CONGRESS
1ST SESSION

H. R. 2983

To provide drought assistance and improved water supply reliability to the State of California, other western States, and the Nation.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2015

Mr. HUFFMAN (for himself, Mr. FARR, Mr. MCNERNEY, Mr. DESAULNIER, Mr. THOMPSON of California, Mr. HONDA, Mr. LOWENTHAL, Ms. ESHOO, Mr. GARAMENDI, Mr. TAKAI, Mr. DEFazio, Mr. CÁRDENAS, Mrs. CAPPS, Mr. PETERS, Mr. SWALWELL of California, Ms. LOFGREN, Ms. SPEIER, Mr. O'ROURKE, Ms. LEE, Mr. BERA, Mrs. TORRES, Ms. LINDA T. SÁNCHEZ of California, Mr. GRIJALVA, Ms. LORETTA SANCHEZ of California, Mr. BLUMENAUER, Ms. PINGREE, Mr. PERLMUTTER, Ms. TITUS, Ms. MATSUI, Mrs. NAPOLITANO, Mr. RUIZ, Mrs. DAVIS of California, and Ms. BROWNLEY of California) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Budget, Science, Space, and Technology, Transportation and Infrastructure, Energy and Commerce, the Judiciary, Ways and Means, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide drought assistance and improved water supply reliability to the State of California, other western States, and the Nation.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Drought Recovery and Resilience Act of 2015”.

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

Sec. 1. Short title; table of contents; findings.

**TITLE I—EMERGENCY DROUGHT RESPONSE APPROPRIATIONS
FROM RECLAMATION FUND**

Sec. 101. Appropriations to be derived from Reclamation Fund.

Sec. 102. Supplemental appropriations for drought relief.

Sec. 103. Supplemental appropriations for the Environmental Protection Agency.

Sec. 104. Supplemental appropriations for the Water Infrastructure Finance and Innovation Act program.

**TITLE II—NEW WATER INFRASTRUCTURE PROGRAM
AUTHORIZATIONS**

Subtitle A—New Water Recycling and Reclamation Program Through EPA

Sec. 201. Short title; findings; purposes.

Sec. 202. National Water Recycling and Reclamation Program.

Subtitle B—Reclamation Infrastructure Finance and Innovation Act (RIFIA)

Sec. 210. Short title; purposes; definitions.

CHAPTER 1—INNOVATIVE FINANCING

Sec. 211. Purposes.

Sec. 212. Authority to provide assistance.

Sec. 213. Applications.

Sec. 214. Eligibility for assistance.

Sec. 215. Determination of eligibility and project selection.

Sec. 216. Secured loans.

Sec. 217. Program administration.

Sec. 218. State and local permits.

Sec. 219. Regulations.

Sec. 220. Funding.

Sec. 221. Report to Congress.

**CHAPTER 2—INTEGRATED REGIONAL WATER MANAGEMENT, RECLAMATION,
AND RECYCLING PROJECTS**

Sec. 231. Water storage projects.

Sec. 232. Authorization of appropriations.

CHAPTER 3—RECLAMATION TITLE TRANSFER PROGRAM

Sec. 241. Short title; definitions.

Sec. 242. Authorization of title transfer program.

- Sec. 243. Compliance with environmental and historic preservation laws.
- Sec. 244. Eligibility criteria.
- Sec. 245. Liability.
- Sec. 246. Benefits.
- Sec. 247. Compliance with other laws.
- Sec. 248. Authorization of appropriations.
- Sec. 249. Termination of authority.

Subtitle C—Innovative Stormwater Capture Program

- Sec. 251. Short title.
- Sec. 252. Purposes and findings.
- Sec. 253. Definitions.
- Sec. 254. Centers of Excellence for innovative stormwater control infrastructure.
- Sec. 255. Innovative stormwater control infrastructure project grants.
- Sec. 256. Environmental Protection Agency innovative stormwater control infrastructure promotion.
- Sec. 257. Report to Congress.
- Sec. 258. Authorization of appropriations.

TITLE III—IMPROVED INFRASTRUCTURE AND WATER MANAGEMENT

Subtitle A—Restoring America’s Watersheds and Increasing Water Yields

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Water Source Protection Program.
- Sec. 304. Watershed Condition Framework.
- Sec. 305. Forest Service Legacy Roads and Trails Remediation Program.
- Sec. 306. Reauthorization of the Collaborative Forest Landscape Restoration Fund.

Subtitle B—Reservoir Operation Improvement

- Sec. 311. Short title.
- Sec. 312. Projects, plans, and reports.

Subtitle C—Reclamation Projects for Renewable Energy To Reduce Evaporation Loss

- Sec. 320. Findings and purpose.
- Sec. 321. Definitions.
- Sec. 322. Evaluation and report.
- Sec. 323. Development of solar and wind energy on covered land.
- Sec. 324. Royalties.
- Sec. 325. Disposition of royalty revenue.

Subtitle D—Improved Reclamation Crop Data

- Sec. 331. Definitions.
- Sec. 332. Determination of planting of water-intense permanent crops.
- Sec. 333. Report related to water-intense permanent crops.

Subtitle E—Improved Oversight of State Injection Wells

- Sec. 341. Amendment to the Safe Drinking Water Act.

Subtitle F—Combating Water Theft for Illegal Marijuana Cultivation

- Sec. 351. Policy directive on illegal water diversion for marijuana cultivation.
- Sec. 352. Environmental reporting requirements for Domestic Cannabis Eradication program.
- Sec. 353. Trespass marijuana location registry.
- Sec. 354. Funding for remediation of trespass marijuana sites.
- Sec. 355. Voluntary guidelines.
- Sec. 356. Research program.

Subtitle G—SECURE Water Amendments

- Sec. 361. Authorized activities; eligibility; authorization of appropriations.
- Sec. 362. Authorization of appropriations for national water availability and use assessment program.

Subtitle H—Refundable Tax Credit for Water-Harvesting Systems

- Sec. 371. Refundable tax credit for water-harvesting systems.

Subtitle I—Funding for Construction for Additional Project Benefits

- Sec. 381. Funding for construction for additional project benefits.

TITLE IV—PLANNING FOR THE FUTURE

Subtitle A—X-Prize for Desalination Breakthroughs

- Sec. 401. Short title.
- Sec. 402. Water technology award program.

Subtitle B—Drought Planning Assistance Through NRCS and Reclamation

- Sec. 411. Drought Planning Assistance through NRCS and Reclamation.

Subtitle C—Drought Preparedness for Fisheries

- Sec. 421. Drought Preparedness for Fisheries.

Subtitle D—National Emergency Planning Response

- Sec. 431. National Emergency Planning Response.

Subtitle E—Military Preparedness for Desalination

- Sec. 441. Report on desalinization technology.

1 (c) FINDINGS.—Congress finds the following:

2 (1) That, as expressed in the Water Supply Act
 3 of 1958, Congress has recognized the primary re-
 4 sponsibilities of the States and local interests in de-
 5 veloping water supplies for domestic, municipal, in-
 6 dustrial, and other purposes, and that the Federal

1 Government should participate and cooperate in
2 these projects.

3 (2) That there is a long and robust legal prece-
4 dent of Federal deference to State primacy in water
5 law and the legal system that States establish for re-
6 solving disputes over water use, with the Supreme
7 Court finding in *Kansas v. Colorado* that “Congress
8 cannot enforce either rule upon any state” in mat-
9 ters of the right regulation of water rights.

10 (3) That, as established in the Proclamation of
11 a State of Emergency issued by the Governor of the
12 State of California on January 17, 2014, California
13 is experiencing record dry conditions, all regions of
14 the State are impacted by the drought, and these ex-
15 tremely dry conditions have persisted since 2012 and
16 are likely to persist beyond this year and more regu-
17 larly into the future.

18 (4) That the State of California is not alone in
19 the prospects for long-term drought, and that the
20 entire American West and Southwest are facing
21 forecasts of prolonged droughts that will leave States
22 facing major water shortages and catastrophic
23 wildfires.

24 (5) That the prolonged period of drought in the
25 American West has also occurred with higher tem-

1 peratures throughout the State of California, reduc-
2 ing snowpack and leading to what climate scientists
3 conclude may be the most severe drought in over
4 1,200 years.

5 (6) That the Colorado River has been under
6 drought conditions since 2000, and that the chances
7 of a “megadrought” striking the Southwest and cen-
8 tral Great Plains are on the rise according to fore-
9 casts from climate scientists.

10 (7) That the United States should utilize all ex-
11 isting authorities and resources made available by
12 the Agricultural Act of 2014, that over \$500 million
13 in assistance has already been dedicated to assisting
14 agricultural users and rural communities in Cali-
15 fornia and other drought-impacted areas, and that
16 the United States Department of Agriculture should
17 continue to prioritize such assistance to bring relief
18 to drought-impacted areas.

19 (8) That this drought emergency requires an
20 immediate and credible response that respects State,
21 local, and tribal law, and that the policies that re-
22 spond to the drought should not pit State against
23 State, region against region, or stakeholders against
24 one another.

1 (9) That Federal agencies should continue to
2 operate the Bureau of Reclamation's Central Valley
3 Project in California in compliance with all Federal
4 and State laws, including biological opinions, while
5 working with the State to maximize operational
6 flexibility in order to deliver as much water as rea-
7 sonably possible to drought-impacted areas and min-
8 imize the harm suffered by fish and wildlife as a re-
9 sult of the drought.

10 (10) That Congress recognizes the range of sep-
11 arate, distinct Federal agencies with authorities and
12 resources that play a role in water supply, including
13 treatment and remediation of groundwater, surface
14 water storage, water recycling and reuse, and other
15 clean water infrastructure, and that to avoid dupli-
16 cation and ensure the efficiency and effectiveness of
17 these various Federal roles, there is a need for im-
18 proved coordination, streamlining, and collaboration,
19 both among Federal agencies and with drought-im-
20 pacted States and localities.

21 (11) That it is the policy of the United States
22 to respect California's coequal goals, established by
23 the Delta Reform Act of 2009, of providing a more
24 reliable water supply for California and protecting,
25 restoring, and enhancing the Delta ecosystem, and

1 that these coequal goals shall be achieved in a man-
2 ner that protects and enhances the unique cultural,
3 recreational, natural resource, and agricultural val-
4 ues of the Delta as an evolving place.

5 (12) That the State of California, in CA Water
6 Code Section 85021, has established a policy to re-
7 duce reliance on the Delta in meeting California's
8 future water supply needs through a statewide strat-
9 egy of investing in improved regional supplies, con-
10 servation, and water use efficiency, that California
11 law directs each region that depends on water from
12 the Delta watershed to improve its regional self-reli-
13 ance for water through investment in water use effi-
14 ciency, water recycling, advanced water technologies,
15 local and regional water supply projects, and im-
16 proved regional coordination of local and regional
17 water supply efforts, and that it is the intent of
18 Congress to ensure that Federal programs, policies,
19 and investments respect and compliment, and do not
20 undermine or conflict with, California's policy of re-
21 ducing reliance on Delta diversions.

22 (13) That the Reclamation Fund was estab-
23 lished in 1902 with the expressed purpose of pro-
24 viding for the construction and maintenance of
25 water infrastructure for the economic development of

1 the western States and territories, with revenues de-
2 posited into the fund out of public land sales within
3 these western States and territories.

4 (14) That since 1902, the Reclamation Fund
5 has been supplemented with additional revenues
6 from Federal water resources development and min-
7 eral and natural resource leases on Federal lands,
8 such that the surplus within the Reclamation Fund
9 now exceeds \$10 billion.

10 (15) That the Reclamation Fund represents a
11 transfer of a portion of receipts from Federal lands
12 and Federal natural resources in the West back to
13 the West for water development, and that in this
14 time of drought the Reclamation Fund's surplus
15 should be used to assist the West in meeting its
16 water needs for public health and safety, for expand-
17 ing water recycling, reuse, and reclamation, for
18 meeting the emergency needs of communities im-
19 pacted by the drought, and for developing long term
20 solutions to meet the impacts of climate change on
21 this already arid region of the country.

1 **TITLE I—EMERGENCY DROUGHT**
2 **RESPONSE APPROPRIATIONS**
3 **FROM RECLAMATION FUND**

4 **SEC. 101. APPROPRIATIONS TO BE DERIVED FROM REC-**
5 **LAMATION FUND.**

6 Amounts made available under this title shall be de-
7 rived from the reclamation fund established by section 1
8 of the Act of June 17, 1902 (42 U.S.C. 391; popularly
9 known as the “Reclamation Act”), and shall remain avail-
10 able until expended.

11 **SEC. 102. SUPPLEMENTAL APPROPRIATIONS FOR**
12 **DROUGHT RELIEF.**

13 (a) IN GENERAL.—Subject to subsection (b), the fol-
14 lowing sums are appropriated, out of any money in the
15 Treasury not otherwise appropriated, for fiscal year 2015:

16 (1) WATER AND RELATED RESOURCES.—For
17 an additional amount for “Department of the Inte-
18 rior—Bureau of Reclamation—Water and Related
19 Resources”, \$300,000,000, of which not less than
20 \$100,000,000 shall be for water reclamation and
21 reuse projects authorized under title XVI of Public
22 Law 102–575; of which not less than \$100,000,000
23 shall be for WaterSMART for assistance under the
24 Reclamation States Emergency Drought Relief Act
25 of 1991 (43 U.S.C. 2201 et seq.); and of which not

1 less than \$50,000,000 shall be for water acquisition,
2 water conveyance, and facilities construction under
3 the Refuge Water Supply Program: *Provided*, That
4 funds provided under this heading may be used for
5 recycled water projects without regard to whether
6 such projects are otherwise authorized under law:
7 *Provided further*, That sufficient funds are spent on
8 the completion of CALFED feasibility studies de-
9 scribed in section 103(d)(1)(A) of Public Law 108–
10 361 (118 Stat. 1684) that have the financing and
11 feasibility to be under construction within 10 years,
12 and that for the purposes of this Act the Federal
13 cost share of such feasibility studies shall be no less
14 than 75% and that the cost share waiver for such
15 feasibility studies shall extend to December 31,
16 2017.

17 (2) HAZARDOUS SUBSTANCE SUPERFUND.—For
18 an additional amount for “Environmental Protection
19 Agency—Hazardous Substance Superfund”,
20 \$300,000,000 for the cleanup of polluted ground-
21 water supplies.

22 (3) RURAL WATER AND WASTE DISPOSAL PRO-
23 GRAM ACCOUNT.—For an additional amount for
24 “Department of Agriculture—Rural Utilities Serv-
25 ice—Rural Water and Waste Disposal Program Ac-

1 count”, \$5,000,000 for the cost of direct and guar-
2 anteed loans and grants for the rural water, waste-
3 water, and waste disposal programs authorized by
4 sections 306 and 310B or described in section
5 381E(d)(2) of the Consolidated Farm and Rural De-
6 velopment Act.

7 (4) DRUG ENFORCEMENT ADMINISTRATION.—
8 For an additional amount for “Department of Jus-
9 tice—Drug Enforcement Administration”,
10 \$3,000,000 for the Domestic Cannabis Eradication
11 and Suppression Program to assist State or local
12 law enforcement agencies in the suppression of can-
13 nabis operations that are conducted on public lands
14 or that intentionally trespass on the property of an-
15 other that also divert, redirect, obstruct, drain, or
16 impound water supply.

17 (5) ARMY CORPS OF ENGINEERS.—For an addi-
18 tional amount for the Army Corps of Engineers,
19 \$40,000,000 to carry out section 5039 of the Water
20 Resources and Development Act of 2007 (33 U.S.C.
21 2201 et seq.).

22 (6) LAND AND WATER CONSERVATION FUND.—
23 For an additional amount for “Land and Water
24 Conservation Fund”, \$100,000,000 for the imple-
25 mentation of projects under the Land and Water

1 Conservation Fund Act of 1965 in drought-affected
2 States that reduce fire risk, improve water quality or
3 downstream water quantity, or expand ground water
4 recharge capacity.

5 (7) LOW-INCOME MIGRANT AND SEASONAL
6 FARMWORKERS.—For an additional amount for the
7 Department of Agriculture, \$25,000,000 for emer-
8 gency grants to assist low-income migrant and sea-
9 sonal farmworkers under section 2281 of the Food,
10 Agriculture, Conservation, and Trade Act of 1990
11 (42 U.S.C. 5177a) to address impacts of drought
12 upon declaration of a natural disaster under section
13 321(a) of the Consolidated Farm and Rural Devel-
14 opment Act (7 U.S.C. 1961(a)) or for the same pur-
15 poses in counties that are contiguous to a designated
16 natural disaster area.

17 (b) DROUGHT PRIORITIZATION.—Each amount ap-
18 propriated under subsection (a) shall be used in States
19 impacted by drought, with an emphasis on projects that
20 will provide additional water supplies most expeditiously
21 to areas at risk of having an inadequate supply of water
22 for public health and safety purposes or to improve resil-
23 iency to drought, or projects that provide relief to drought-
24 affected communities facing unemployment and economic
25 dislocation.

1 (c) EMERGENCY DESIGNATION.—Each amount ap-
2 propriated under subsection (a) is designated by the Con-
3 gress as being for an emergency requirement pursuant to
4 section 251(b)(2)(A)(i) of the Balanced Budget and
5 Emergency Deficit Control Act of 1985.

6 (d) GAO STUDY.—

7 (1) IN GENERAL.—The Comptroller General
8 shall conduct a comprehensive study on Federal in-
9 vestments in clean water and wastewater infrastruc-
10 ture, addressing duplicative and fragmented pro-
11 grams. The report shall include—

12 (A) a description of how Federal agencies,
13 including the Army Corps of Engineers, the En-
14 vironmental Protection Agency, the Bureau of
15 Reclamation, the Rural Utilities Service, and
16 other relevant agencies, coordinate their efforts
17 to address nationally, regionally, or locally iden-
18 tified needs or priorities in an efficient and ef-
19 fective manner; and

20 (B) an evaluation of the adequacy of Fed-
21 eral coordination in meeting the needs of tribal
22 lands.

23 (2) REPORT TO CONGRESS.— Not later than 1
24 year after the date of the enactment of this Act, the
25 Comptroller General shall submit to Congress a re-

1 port containing the results of the study required
 2 under paragraph (1) and any recommendations
 3 based on such study.

4 **SEC. 103. SUPPLEMENTAL APPROPRIATIONS FOR THE EN-**
 5 **VIRONMENTAL PROTECTION AGENCY.**

6 The following sums are appropriated, out of any
 7 money in the Treasury not otherwise appropriated, for fis-
 8 cal year 2015:

9 ENVIRONMENTAL PROTECTION AGENCY

10 STATE AND TRIBAL ASSISTANCE GRANTS

11 For an additional amount for “State and Tribal As-
 12 sistance Grants”, \$500,000,000, of which \$400,000,000
 13 shall be for making capitalization grants for the State
 14 water pollution control revolving funds under title VI of
 15 the Federal Water Pollution Control Act; and of which
 16 \$100,000,000 shall be for making capitalization grants for
 17 the State drinking water treatment revolving loan funds
 18 under section 1452 of the Safe Drinking Water Act: *Pro-*
 19 *vided*, That notwithstanding the time period specified in
 20 section 603(d) (1)(A) of the Federal Water Pollution Con-
 21 trol Act and section 1452(f)(1)(B)(i) of the Safe Drinking
 22 Water Act, loans made by such funds shall be authorized
 23 for 40-year terms: *Provided further*, That notwithstanding
 24 the formula or allotments set forth in section 604 of the
 25 Federal Water Pollution Control Act and section

1 1452(a)(1)(D) of the Safe Drinking Water Act, loans
 2 made by such funds shall be distributed based on an as-
 3 sessment of the immediate need in States impacted by
 4 drought, with an emphasis on projects that will provide
 5 additional water supplies most expeditiously to areas that
 6 are at risk of having an inadequate supply of water for
 7 public health and safety purposes or to improve resiliency
 8 to drought, including projects to increase efficiency and
 9 conservation by end users: *Provided further*, That to the
 10 maximum extent practicable, highest priority to the loans
 11 made with such funds shall be given to projects that have
 12 been approved by, and have previously received funding
 13 from, State and local water agencies: *Provided further*,
 14 That such amount is designated by the Congress as being
 15 for an emergency requirement pursuant to section
 16 251(b)(2)(A)(i) of the Balanced Budget and Emergency
 17 Deficit Control Act of 1985.

18 **SEC. 104. SUPPLEMENTAL APPROPRIATIONS FOR THE**
 19 **WATER INFRASTRUCTURE FINANCE AND IN-**
 20 **NOVATION ACT PROGRAM.**

21 The following sums are appropriated, out of any
 22 money in the Treasury not otherwise appropriated, for fis-
 23 cal year 2015:

1 ENVIRONMENTAL PROTECTION AGENCY
2 STATE AND TRIBAL ASSISTANCE GRANTS

3 For an additional amount for “State and Tribal As-
4 sistance Grants”, \$20,000,000 to carry out the Water In-
5 frastructure Finance and Innovation Act of 2014: *Pro-*
6 *vided*, That loans made by such funds shall be distributed
7 based on an assessment of the immediate need in States
8 impacted by drought, with an emphasis on projects that
9 will provide additional water supplies most expeditiously
10 to areas that are at risk of having an inadequate supply
11 of water for public health and safety purposes or to im-
12 prove resiliency to drought, including projects to increase
13 efficiency and conservation by end users: *Provided further*,
14 That the limitations imposed by sections 5028(a)(5) and
15 5029(b)(2)(A) of the Water Resources Reform and Devel-
16 opment Act of 2014 shall not apply with respect to a
17 project receiving such funds in any State with a drought
18 declaration: *Provided further*, That notwithstanding sec-
19 tion 5029(b)(4) of the Water Resources Reform and De-
20 velopment Act of 2014, the interest rate for a secured loan
21 under this section shall be not more than the yield on
22 United States Treasury securities of a similar maturity
23 to the maturity of the secured loan on the date of execu-
24 tion of the loan agreement: *Provided further*, That not-
25 withstanding section 5028(a)(2)(A) of the Water Re-

1 sources Reform and Development Act of 2014, the eligible
 2 project costs of a project shall be reasonably anticipated
 3 to be not less than \$10,000,000: *Provided further*, That
 4 such amount is designated by the Congress as being for
 5 an emergency requirement pursuant to section
 6 251(b)(2)(A)(i) of the Balanced Budget and Emergency
 7 Deficit Control Act of 1985.

8 **TITLE II—NEW WATER INFRA-**
 9 **STRUCTURE PROGRAM AU-**
 10 **THORIZATIONS**

11 **Subtitle A—New Water Recycling**
 12 **and Reclamation Program**
 13 **Through EPA**

14 **SEC. 201. SHORT TITLE; FINDINGS; PURPOSES.**

15 (a) SHORT TITLE.—This subtitle may be cited as the
 16 “National Water Recycling and Reclamation Act of
 17 2015”.

18 (b) FINDINGS.—Congress finds that—

19 (1) water supply, wastewater, sanitation, and
 20 sewage agencies across the Nation are developing
 21 and investing in water reuse and recycling projects;

22 (2) almost 900,000 acre-feet of annual water
 23 supply are in development through these projects
 24 and could be expeditiously constructed with in-
 25 creased Federal investment; and

1 (3) in California alone, there are water reuse
2 and recycling projects that could add over 500,000
3 acre-feet of annual water supply.

4 (c) PURPOSES.—It is the purpose of this subtitle to
5 expand investments in water reuse and recycling projects
6 nationwide.

7 **SEC. 202. NATIONAL WATER RECYCLING AND RECLAMA-**
8 **TION PROGRAM.**

9 (a) ESTABLISHMENT.—The Administrator of the En-
10 vironmental Protection Agency shall establish and carry
11 out a National Water Recycling and Reclamation Program
12 to provide grants to eligible entities for water recycling
13 and reclamation projects.

14 (b) DEFINITIONS.—In this section, the following defi-
15 nitions apply:

16 (1) ELIGIBLE COSTS.—The term “eligible
17 costs” means amounts substantially all of which are
18 paid by, or for the account of, an eligible entity in
19 connection with a project, including the cost of—

20 (A) development phase activities, including
21 planning, feasibility analysis, revenue fore-
22 casting, environmental review, permitting, pre-
23 liminary engineering and design work, and
24 other preconstruction activities;

1 (B) construction, reconstruction, rehabili-
2 tation, replacement, and acquisition of real
3 property (including land related to the project
4 and improvements to land), environment miti-
5 gation, construction contingencies, and acquisi-
6 tion of equipment;

7 (C) capitalized interest necessary to meet
8 market requirements, reasonably required re-
9 serve funds, capital issuance expenses, and
10 other carrying costs during construction; and

11 (D) reimbursement for costs described in
12 subparagraphs (A) through (C) incurred prior
13 to the date of enactment of this Act.

14 (2) ELIGIBLE ENTITY.—The term “eligible enti-
15 ty” means a corporation, partnership, joint venture,
16 trust, public or investor-owned utility, private entity,
17 government entity, agency, or instrumentality, tribal
18 government, or any other reclamation and reuse en-
19 tity, as determined by the Administrator.

20 (3) PROGRAM.—The term “program” means
21 the National Water Recycling and Reclamation Pro-
22 gram established under this section.

23 (c) ELIGIBILITY.—

24 (1) PROJECT COSTS.—To be eligible for assist-
25 ance under the program, a water recycling and rec-

1 lamation project shall have total eligible costs that
2 are reasonably anticipated to exceed \$1,000,000.

3 (2) PROJECT SPONSOR.—To be eligible for as-
4 sistance under the program, a water recycling and
5 reclamation project shall have a project sponsor
6 that—

7 (A) is an eligible entity;

8 (B) submits to the Administrator an appli-
9 cation for the project; and

10 (C) demonstrates a source for non-Federal
11 revenues that is sufficient to satisfy the non-
12 Federal share of the cost of the project.

13 (d) COMPETITIVE GRANT SELECTION.—

14 (1) IN GENERAL.—The Administrator shall—

15 (A) establish criteria for selecting among
16 projects that meet the eligibility criteria speci-
17 fied in subsection (c);

18 (B) conduct a national solicitation for ap-
19 plications; and

20 (C) award grants on a competitive basis.

21 (2) SELECTION CRITERIA.—The selection cri-
22 teria shall include the following:

23 (A) The extent to which the project ad-
24 dresses near- and long-term water demand and
25 supply, protects the environment, or otherwise

1 enhances the overall water reclamation and
2 reuse system.

3 (B) The extent to which the project en-
4 hances the return on the Federal investment
5 through the production of new, highly renew-
6 able water supplies.

7 (C) The likelihood that financial assistance
8 under the program will enable the project to
9 proceed at an earlier date than the project
10 would otherwise be able to proceed.

11 (D) The extent to which the project uses
12 measures that enhance the efficiency of the
13 project.

14 (3) DEADLINES.—The Administrator shall—

15 (A) publish the selection criteria under
16 paragraph (1) in the Federal Register not later
17 than 90 days after the date of enactment of
18 this Act;

19 (B) require that applications seeking finan-
20 cial assistance under the program be submitted
21 not later than 180 days after the date of publi-
22 cation of the selection criteria under subpara-
23 graph (A); and

1 (C) provide notice of approved project ap-
2 plications under the program not later than 1
3 year after the date of enactment of this Act.

4 (e) FEDERAL SHARE.—The Federal share of the cost
5 of a project receiving financial assistance under the pro-
6 gram may not exceed 80 percent.

7 (f) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—There is authorized to be
9 appropriated to carry out this section \$500,000,000
10 for each of fiscal years 2016 through 2020. Such
11 sums shall remain available until expended.

12 (2) ADMINISTRATIVE EXPENSES.—From funds
13 made available to carry out this section for a fiscal
14 year, the Administrator may use not to exceed 2
15 percent of the funds for the costs of administering
16 this section.

17 (g) REPORTS TO CONGRESS.—Not later than October
18 1, 2016, and every 2 years thereafter, the Administrator
19 shall submit to Congress a report summarizing the finan-
20 cial performance of projects that are receiving, or have re-
21 ceived, assistance under the program.

22 (h) REGULATIONS.—The Administrator may issue
23 such regulations as the Administrator determines appro-
24 priate to carry out this section.

1 (i) FAILURE TO MEET DEADLINE.—If the Adminis-
 2 trator does not meet a deadline under subsection (d)(3),
 3 the Administrator shall transfer all funds made available
 4 for the program so as to make such funds available for
 5 the purpose of making capitalization grants for water re-
 6 cycling and reclamation projects under the State water
 7 pollution revolving loan fund program under title VI of
 8 the Federal Water Pollution Control Act (33 U.S.C. 1381
 9 et seq.) and the State drinking water treatment revolving
 10 loan fund program under section 1452 of the Safe Drink-
 11 ing Water Act (42 U.S.C. 300j–12).

12 **Subtitle B—Reclamation Infra-**
 13 **structure Finance and Innova-**
 14 **tion Act (RIFIA)**

15 **SEC. 210. SHORT TITLE; PURPOSES; DEFINITIONS.**

16 (a) SHORT TITLE.—This subtitle may be cited as the
 17 “Reclamation Infrastructure Finance and Innovation Act”
 18 or “RIFIA”.

19 (b) PURPOSES.—The purposes of this subtitle are—

20 (1) to promote increased development of critical
 21 water resources infrastructure by establishing addi-
 22 tional opportunities for financing water resources
 23 projects;

24 (2) to attract new investment capital to infra-
 25 structure projects that are capable of generating rev-

1 enue streams through user fees or other dedicated
2 funding sources;

3 (3) to complement existing Federal funding
4 sources and address budgetary constraints on Bu-
5 reau of Reclamation programs; and

6 (4) to leverage private investment in water re-
7 sources infrastructure, with the goal of every \$100
8 million in secured loans being leveraged for \$1 bil-
9 lion in water in water infrastructure financing.

10 (c) DEFINITIONS.—In this subtitle:

11 (1) ELIGIBLE ENTITY.—The term “eligible enti-
12 ty” means—

13 (A) a corporation;

14 (B) a partnership;

15 (C) a joint venture;

16 (D) a trust;

17 (E) a State or local governmental entity,
18 agency, or instrumentality; and

19 (F) a conservancy district, irrigation dis-
20 trict, canal company, mutual water company,
21 water users’ association, Indian tribe, agency
22 created by interstate compact, or any other en-
23 tity that has the capacity to contract with the
24 United States under Federal reclamation law.

1 (2) FEDERAL CREDIT INSTRUMENT.—The term
2 “Federal credit instrument” means a secured loan,
3 loan guarantee, or other credit enhancement author-
4 ized to be made available under this subtitle with re-
5 spect to a project.

6 (3) INVESTMENT-GRADE RATING.—The term
7 “investment-grade rating” means a rating of BBB
8 minus, Baa3, bbb minus, BBB (low), or higher as
9 assigned by a rating agency to project obligations.

10 (4) LENDER.—

11 (A) IN GENERAL.—The term “lender”
12 means any non-Federal qualified institutional
13 buyer (as defined in section 230.144A(a) of
14 title 17, Code of Federal Regulations (or a suc-
15 cessor regulation) (commonly known as “Rule
16 144A(a) of the Securities and Exchange Com-
17 mission” and issued under the Securities Act of
18 1933 (15 U.S.C. 77a et seq.))).

19 (B) INCLUSIONS.—The term “lender” in-
20 cludes—

21 (i) a qualified retirement plan (as de-
22 fined in section 4974 of the Internal Rev-
23 enue Code of 1986) that is a qualified in-
24 stitutional buyer; and

1 (ii) a governmental plan (as defined in
2 section 414 of the Internal Revenue Code
3 of 1986) that is a qualified institutional
4 buyer.

5 (5) LOAN GUARANTEE.—The term “loan guar-
6 antee” means any guarantee or other pledge by the
7 Secretary to pay all or part of the principal of, and
8 interest on, a loan or other debt obligation issued by
9 an obligor and funded by a lender.

10 (6) OBLIGOR.—The term “obligor” means an
11 eligible entity that is primarily liable for payment of
12 the principal of, or interest on, a Federal credit in-
13 strument.

14 (7) PROJECT OBLIGATION.—

15 (A) IN GENERAL.—The term “project obli-
16 gation” means any note, bond, debenture, or
17 other debt obligation issued by an obligor in
18 connection with the financing of a project.

19 (B) EXCLUSION.—The term “project obli-
20 gation” does not include a Federal credit in-
21 strument.

22 (8) RATING AGENCY.—The term “rating agen-
23 cy” means a credit rating agency registered with the
24 Securities and Exchange Commission as a nationally
25 recognized statistical rating organization (as defined

1 in section 3(a) of the Securities Exchange Act of
2 1934 (15 U.S.C. 78c(a)).

3 (9) RECLAMATION STATE.—The term “Rec-
4 lamation State” means any of the States of—

5 (A) Arizona;

6 (B) California;

7 (C) Colorado;

8 (D) Idaho;

9 (E) Kansas;

10 (F) Montana;

11 (G) Nebraska;

12 (H) Nevada;

13 (I) New Mexico;

14 (J) North Dakota;

15 (K) Oklahoma;

16 (L) Oregon;

17 (M) South Dakota;

18 (N) Texas;

19 (O) Utah;

20 (P) Washington; and

21 (Q) Wyoming.

22 (10) SECRETARY.—The term “Secretary”
23 means the Secretary of the Interior.

24 (11) SECURED LOAN.—The term “secured
25 loan” means a direct loan or other debt obligation

1 issued by an obligor and funded by the Secretary in
2 connection with the financing of a project under
3 chapter 1.

4 (12) SUBSIDY AMOUNT.—The term “subsidy
5 amount” means the amount of budget authority suf-
6 ficient to cover the estimated long-term cost to the
7 Federal Government of a Federal credit instrument,
8 as calculated on a net present value basis, excluding
9 administrative costs and any incidental effects on
10 Governmental receipts or outlays in accordance with
11 the Federal Credit Reform Act of 1990 (2 U.S.C.
12 661 et seq.).

13 (13) SUBSTANTIAL COMPLETION.—The term
14 “substantial completion”, with respect to a project,
15 means the earliest date on which a project is consid-
16 ered to perform the functions for which the project
17 is designed.

18 **CHAPTER 1—INNOVATIVE FINANCING**

19 **SEC. 211. PURPOSES.**

20 The purposes of this chapter are—

21 (1) to promote increased development of critical
22 water resources infrastructure by establishing addi-
23 tional opportunities for financing water resources
24 projects;

1 (2) to attract new investment capital to infra-
2 structure projects that are capable of generating rev-
3 enue streams through user fees or other dedicated
4 funding sources;

5 (3) to complement existing Federal funding
6 sources and address budgetary constraints on Bu-
7 reau of Reclamation programs; and

8 (4) to leverage private investment in water re-
9 sources infrastructure.

10 **SEC. 212. AUTHORITY TO PROVIDE ASSISTANCE.**

11 (a) IN GENERAL.—The Secretary may provide finan-
12 cial assistance to an eligible entity under this chapter to
13 carry out projects within—

14 (1) any Reclamation State;

15 (2) any other State in which the Bureau of
16 Reclamation is authorized to provide project assist-
17 ance; and

18 (3) the States of Alaska and Hawaii.

19 (b) SELECTION.—In selecting projects to receive fi-
20 nancial assistance under subsection (a), the Secretary
21 shall ensure diversity with respect to—

22 (1) project types; and

23 (2) geographical locations.

1 **SEC. 213. APPLICATIONS.**

2 To be eligible to receive assistance under this chapter,
3 an eligible entity shall submit to the Secretary an applica-
4 tion at such time, in such manner, and containing such
5 information as the Secretary may require.

6 **SEC. 214. ELIGIBILITY FOR ASSISTANCE.**

7 (a) **ELIGIBLE PROJECTS.**—The following projects
8 may be carried out using assistance made available under
9 this chapter:

10 (1) A project for the reclamation and reuse of
11 municipal, industrial, domestic, and agricultural
12 wastewater, and naturally impaired ground, which
13 the Secretary, acting through the Commissioner of
14 Reclamation, is authorized to undertake.

15 (2) Any water infrastructure project not specifi-
16 cally authorized by law that—

17 (A) the Secretary determines, through the
18 completion of an appraisal investigation and
19 feasibility study, would contribute to a safe,
20 adequate water supply for domestic, agricul-
21 tural, environmental, or municipal and indus-
22 trial use; and

23 (B) is otherwise eligible for assistance
24 under this chapter.

1 (3) A new water infrastructure facility project,
2 including a water conduit, pipeline, canal, pumping,
3 power, and associated facilities.

4 (4) A project for enhanced energy efficiency in
5 the operation of a water system.

6 (5) A project for accelerated repair and replace-
7 ment of an aging water distribution facility.

8 (6) A brackish or sea water desalination
9 project.

10 (7) Acquisition of real property or an interest
11 in real property for water storage, reclaimed or recy-
12 cled water, or wastewater, if the acquisition is inte-
13 gral to a project described in paragraphs (1)
14 through (6).

15 (8) A combination of projects, each of which is
16 eligible under paragraphs (1) through (7), for which
17 an eligible entity submits a single application.

18 (b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—For
19 purposes of this chapter, an eligible activity with respect
20 to an eligible project under subsection (a) includes the cost
21 of—

22 (1) development-phase activities, including plan-
23 ning, feasibility analysis, revenue forecasting, envi-
24 ronmental review, permitting, transaction costs, pre-

1 liminary engineering and design work, and other
2 preconstruction activities;

3 (2) construction, reconstruction, rehabilitation,
4 and replacement activities;

5 (3) the acquisition of real property (including
6 water rights, land relating to the project, and im-
7 provements to land), environmental mitigation, con-
8 struction contingencies, and acquisition of equip-
9 ment;

10 (4) capitalized interest necessary to meet mar-
11 ket requirements, reasonably required reserve funds,
12 capital issuance expenses, and other carrying costs
13 during construction;

14 (5) refinancing interim construction funding,
15 long-term project obligations, or a secured loan, loan
16 guarantee, or other credit enhancement made under
17 this chapter;

18 (6) reimbursement or success payments to any
19 public or private entity that achieves predetermined
20 outcomes on a pay-for-performance or pay-for-suc-
21 cess basis; and

22 (7) grants, loans, or credit enhancement for
23 community development financial institutions, green
24 banks, and other financial intermediaries providing

1 ongoing finance for projects that meet the purposes
2 of this chapter.

3 **SEC. 215. DETERMINATION OF ELIGIBILITY AND PROJECT**
4 **SELECTION.**

5 (a) **ELIGIBILITY REQUIREMENTS.**—To be eligible to
6 receive financial assistance under this chapter, a project
7 shall meet the following criteria, as determined by the Sec-
8 retary:

9 (1) **CREDITWORTHINESS.**—

10 (A) **IN GENERAL.**—Subject to subpara-
11 graph (B), the project shall be creditworthy, as
12 determined by the Secretary, who shall ensure
13 that any financing for the project has appro-
14 priate security features, such as a rate cov-
15 enant, to ensure repayment.

16 (B) **PRELIMINARY RATING OPINION LET-**
17 **TER.**—The Secretary shall require each appli-
18 cant to provide a preliminary rating opinion let-
19 ter from at least 1 rating agency indicating that
20 the senior obligations of the project (which may
21 be the Federal credit instrument) have the po-
22 tential to achieve an investment-grade rating.

23 (2) **ELIGIBLE PROJECT COSTS.**—The eligible
24 project costs of a project and other projects in a wa-

1 tershed shall be reasonably anticipated to be not less
2 than \$10,000,000.

3 (3) DEDICATED REVENUE SOURCES.—The Fed-
4 eral credit instrument for the project shall be repay-
5 able from dedicated revenue sources that also secure
6 the project obligations.

7 (4) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
8 TIES.—In the case of a project carried out by an en-
9 tity that is not a State or local government or an
10 agency or instrumentality of a State or local govern-
11 ment, the project shall be publicly sponsored.

12 (b) SELECTION CRITERIA.—

13 (1) ESTABLISHMENT.—The Secretary shall es-
14 tablish criteria for the selection of projects that meet
15 the eligibility requirements of subsection (a), in ac-
16 cordance with paragraph (2).

17 (2) CRITERIA.—The selection criteria shall in-
18 clude the following:

19 (A) The extent to which the project is na-
20 tionally or regionally significant.

21 (B) The extent to which assistance under
22 this section would foster innovative public-pri-
23 vate partnerships and attract private debt or
24 equity investment.

1 (C) The likelihood that assistance under
2 this section would enable the project to proceed
3 at an earlier date than the project would other-
4 wise be able to proceed.

5 (D) The extent to which the project uses
6 new or innovative approaches.

7 (E) The extent to which projects track evi-
8 dence about the effectiveness of the 1 or more
9 projects financed and the availability of the evi-
10 dence and project information to the public to
11 facilitate replication.

12 (F) The amount of budget authority re-
13 quired to fund the Federal credit instrument
14 made available under this chapter.

15 (G) The extent to which the project helps
16 maintain or protect the environment.

17 (H) The extent to which the project sup-
18 ports the local economy and provides local jobs.

19 (3) PRIORITY.—The Secretary shall prioritize
20 projects that promote wastewater recycling, agricul-
21 tural or urban water conservation and efficiency,
22 stormwater capture, or other innovative projects that
23 reduce reliance on surface and groundwater supplies.

24 (c) RECEIPT OF OTHER FEDERAL FUNDING.—Re-
25 ceipt of a Federal grant or contract or other Federal fund-

1 ing to support an eligible project shall not preclude the
2 project from being eligible for assistance under this chap-
3 ter.

4 (d) FEDERAL REQUIREMENTS.—Nothing in this sec-
5 tion supersedes the applicability of other requirements of
6 Federal law (including regulations).

7 **SEC. 216. SECURED LOANS.**

8 (a) AGREEMENTS.—

9 (1) IN GENERAL.—Subject to paragraphs (2)
10 through (4), the Secretary may enter into agree-
11 ments with 1 or more obligors to make secured
12 loans, the proceeds of which shall be used—

13 (A) to finance eligible project costs of any
14 project selected under section 215;

15 (B) to refinance interim construction fi-
16 nancing of eligible project costs of any project
17 selected under section 215; or

18 (C) to refinance long-term project obliga-
19 tions or Federal credit instruments, if that refi-
20 nancing provides additional funding capacity for
21 the completion, enhancement, or expansion of
22 any project that—

23 (i) is selected under section 215; or

24 (ii) otherwise meets the requirements
25 of section 215.

1 (2) LIMITATION ON REFINANCING OF INTERIM
2 CONSTRUCTION FINANCING.—A secured loan under
3 paragraph (1) shall not be used to refinance interim
4 construction financing under paragraph (1)(B) later
5 than 1 year after the date of substantial completion
6 of the applicable project.

7 (3) RISK ASSESSMENT.—Before entering into
8 an agreement under this subsection for a secured
9 loan, the Secretary, in consultation with the Director
10 of the Office of Management and Budget and each
11 rating agency providing a preliminary rating opinion
12 letter under section 215(a)(1)(B), shall determine an
13 appropriate capital reserve subsidy amount for the
14 secured loan, taking into account each such prelimi-
15 nary rating opinion letter.

16 (4) INVESTMENT-GRADE RATING REQUIRE-
17 MENT.—The execution of a secured loan under this
18 section shall be contingent on receipt by the senior
19 obligations of the project of an investment-grade rat-
20 ing.

21 (b) TERMS AND LIMITATIONS.—

22 (1) IN GENERAL.—A secured loan provided for
23 a project under this section shall be subject to such
24 terms and conditions, and contain such covenants,
25 representations, warranties, and requirements (in-

1 including requirements for audits), as the Secretary
2 determines to be appropriate.

3 (2) MAXIMUM AMOUNT.—The amount of a se-
4 cured loan under this section shall not exceed the
5 lesser of—

6 (A) an amount equal to 100 percent of the
7 reasonably anticipated eligible project costs; and

8 (B) if the secured loan does not receive an
9 investment-grade rating, the amount of the sen-
10 ior project obligations of the project.

11 (3) PAYMENT.—A secured loan under this sec-
12 tion—

13 (A) shall be payable, in whole or in part,
14 from State or local taxes, user fees, or other
15 dedicated revenue sources that also secure the
16 senior project obligations of the relevant
17 project;

18 (B) shall include a rate covenant, coverage
19 requirement, or similar security feature sup-
20 porting the project obligations; and

21 (C) may have a lien on revenues described
22 in subparagraph (A), subject to any lien secur-
23 ing project obligations.

24 (4) INTEREST RATE.—The interest rate on a
25 secured loan under this section shall be not more

1 than the yield on United States Treasury securities
2 of a similar maturity to the maturity of the secured
3 loan on the date of execution of the loan agreement,
4 as determined by the Secretary.

5 (5) MATURITY DATE.—The final maturity date
6 of a secured loan under this section shall be not
7 later than 35 years after the expected date of sub-
8 stantial completion of the relevant project.

9 (6) NONSUBORDINATION.—A secured loan
10 under this section shall not be subordinated to the
11 claims of any holder of project obligations in the
12 event of bankruptcy, insolvency, or liquidation of the
13 obligor of the project.

14 (7) FEES.—The Secretary may establish fees
15 under section 217(b) at a level sufficient to cover all
16 or a portion of the costs to the Federal Government
17 of making a secured loan under this section.

18 (8) NON-FEDERAL SHARE.—The proceeds of a
19 secured loan under this section may be used to pay
20 any non-Federal share of project costs required if
21 the loan is repayable from non-Federal funds.

22 (c) REPAYMENT.—

23 (1) SCHEDULE.—The Secretary shall establish
24 a repayment schedule for each secured loan provided

1 under this section, based on the projected cash flow
2 from project revenues and other repayment sources.

3 (2) COMMENCEMENT.—Scheduled loan repay-
4 ment of principal or interest on a secured loan under
5 this section shall commence not later than 5 years
6 after the date of substantial completion of the
7 project.

8 (3) DEFERRED PAYMENTS.—

9 (A) AUTHORIZATION.—If, at any time
10 after the date of substantial completion of a
11 project for which a secured loan is provided
12 under this section, the project is unable to gen-
13 erate sufficient revenues to pay the scheduled
14 loan repayments of principal and interest on the
15 secured loan, the Secretary may allow the obli-
16 gor, subject to subparagraph (C), to add unpaid
17 principal and interest to the outstanding bal-
18 ance of the secured loan.

19 (B) INTEREST.—Any payment deferred
20 under subparagraph (A) shall—

21 (i) continue to accrue interest in ac-
22 cordance with subsection (b)(4) until fully
23 repaid; and

24 (ii) be scheduled to be amortized over
25 the remaining term of the secured loan.

1 (C) CRITERIA.—

2 (i) IN GENERAL.—Any payment defer-
3 ral under subparagraph (A) shall be con-
4 tingent on the project meeting such cri-
5 teria as the Secretary may establish.

6 (ii) REPAYMENT STANDARDS.—The
7 criteria established under clause (i) shall
8 include standards for reasonable assurance
9 of repayment.

10 (4) PREPAYMENT.—

11 (A) USE OF EXCESS REVENUES.—Any ex-
12 cess revenues that remain after satisfying
13 scheduled debt service requirements on the
14 project obligations and secured loan and all de-
15 posit requirements under the terms of any trust
16 agreement, bond resolution, or similar agree-
17 ment securing project obligations may be ap-
18 plied annually to prepay a secured loan under
19 this section without penalty.

20 (B) USE OF PROCEEDS OF REFI-
21 NANCING.—A secured loan under this section
22 may be prepaid at any time without penalty
23 from the proceeds of refinancing from non-Fed-
24 eral funding sources.

25 (d) SALE OF SECURED LOANS.—

1 (1) IN GENERAL.—Subject to paragraph (2), as
2 soon as practicable after the date of substantial
3 completion of a project and after providing a notice
4 to the obligor, the Secretary may sell to another en-
5 tity or reoffer into the capital markets a secured
6 loan for a project under this section, if the Secretary
7 determines that the sale or reoffering can be made
8 on favorable terms.

9 (2) CONSENT OF OBLIGOR.—In making a sale
10 or reoffering under paragraph (1), the Secretary
11 may not change the original terms and conditions of
12 the secured loan without the written consent of the
13 obligor.

14 (e) LOAN GUARANTEES.—

15 (1) IN GENERAL.—The Secretary may provide a
16 loan guarantee to a lender in lieu of making a se-
17 cured loan under this section, if the Secretary deter-
18 mines that the budgetary cost of the loan guarantee
19 is substantially the same as that of a secured loan.

20 (2) TERMS.—The terms of a loan guarantee
21 provided under this subsection shall be consistent
22 with the terms established in this section for a se-
23 cured loan, except that the rate on the guaranteed
24 loan and any prepayment features shall be nego-

1 tiated between the obligor and the lender, with the
2 consent of the Secretary.

3 **SEC. 217. PROGRAM ADMINISTRATION.**

4 (a) REQUIREMENT.—The Secretary shall establish a
5 uniform system to service the Federal credit instruments
6 made available under this chapter.

7 (b) CAPITAL RESERVE FUND.—

8 (1) IN GENERAL.—There is hereby established
9 in the Treasury of the United States the Reclama-
10 tion Loan Finance Capital Reserve Fund, which
11 shall be available for deposit of capital reserve fees
12 provided for under this subsection. Amounts depos-
13 ited shall be credited as offsetting collections.

14 (2) CAPITAL RESERVE FEES.—To the extent re-
15 quired by appropriations Acts, the Secretary may as-
16 sess, collect, and spend capital reserve fees at a level
17 that is sufficient to cover—

18 (A) the costs of services of expert firms re-
19 tained pursuant to subsection (d); and

20 (B) all or a portion of the costs to the
21 Federal Government of servicing the Federal
22 credit instruments provided under this chapter,
23 including all or a portion of the outlays associ-
24 ated with the provision of the Federal credit in-
25 struments under this chapter.

1 (3) DETERMINATION OF FEE AMOUNTS.—The
2 capital reserve fees shall be established at amounts
3 that will result in the collection, during each fiscal
4 year, of an amount that can be reasonably expected
5 to equal the outlays associated with the provision of
6 the Federal credit instruments under this chapter.

7 (c) SERVICER.—

8 (1) IN GENERAL.—The Secretary may appoint
9 a financial entity to assist the Secretary in servicing
10 the Federal credit instruments provided under this
11 chapter.

12 (2) DUTIES.—A servicer appointed under para-
13 graph (1) shall act as the agent for the Secretary.

14 (3) FEE.—A servicer appointed under para-
15 graph (1) shall receive a servicing fee, subject to ap-
16 proval by the Secretary.

17 (d) ASSISTANCE FROM EXPERTS.—The Secretary
18 may retain the services, including counsel, of any organi-
19 zation or entity with expertise in the field of municipal
20 and project finance to assist in the underwriting and serv-
21 icing of Federal credit instruments provided under this
22 chapter.

23 (e) LOAN COORDINATION; INTERAGENCY COOPERA-
24 TION.—The Secretary—

1 (1) shall coordinate implementation of loan
2 guarantees under this section with the Administrator
3 to avoid duplication and enhance the effectiveness of
4 implementation of the State revolving funds estab-
5 lished under the Federal Water Pollution Control
6 Act (33 U.S.C. 1251 et seq.) and the Safe Drinking
7 Water Act (42 U.S.C. 300f et seq.);

8 (2) shall consult with the Secretary of Agri-
9 culture before promulgating criteria with respect to
10 financial appraisal functions and loan guarantee ad-
11 ministration for activities carried out under this
12 chapter; and

13 (3) may enter into a memorandum of agree-
14 ment providing for Department of Agriculture finan-
15 cial appraisal functions and loan guarantee adminis-
16 tration for activities carried out under this chapter.

17 **SEC. 218. STATE AND LOCAL PERMITS.**

18 The provision of financial assistance for a project
19 under this chapter shall not—

20 (1) relieve any recipient of the assistance of any
21 obligation to obtain any required State or local per-
22 mit or approval with respect to the project;

23 (2) limit the right of any unit of State or local
24 government to approve or regulate any rate of re-
25 turn on private equity invested in the project; or

1 (3) otherwise supersede any State or local law
2 (including any regulation) applicable to the construc-
3 tion or operation of the project.

4 **SEC. 219. REGULATIONS.**

5 The Secretary may promulgate such regulations as
6 the Secretary determines to be appropriate to carry out
7 this chapter.

8 **SEC. 220. FUNDING.**

9 (a) IN GENERAL.—There is authorized to be appro-
10 priated to the Secretary to carry out this chapter
11 \$100,000,000 for each of fiscal years 2015 through 2019,
12 to remain available until expended.

13 (b) ADMINISTRATIVE COSTS.—Of the funds made
14 available to carry out this chapter, the Secretary may use
15 for the administration of this chapter not more than
16 \$2,200,000 for each of fiscal years 2015 through 2019.

17 **SEC. 221. REPORT TO CONGRESS.**

18 Not later than 2 years after the date of enactment
19 of this Act, and every 2 years thereafter, the Secretary
20 shall submit to the Committee on Energy and Natural Re-
21 sources of the Senate and the Committee on Natural Re-
22 sources of the House of Representatives a report summa-
23 rizing the financial performance and on-the-ground out-
24 comes of the projects that are receiving, or have received,

1 assistance under this chapter, including an assessment of
 2 whether the objectives of this chapter are being met.

3 **CHAPTER 2—INTEGRATED REGIONAL**
 4 **WATER MANAGEMENT, RECLAMATION,**
 5 **AND RECYCLING PROJECTS**

6 **SEC. 231. WATER STORAGE PROJECTS.**

7 (a) AGREEMENTS.—The Secretary may enter into a
 8 cost-shared financial assistance agreement with any non-
 9 Federal entity in a Reclamation State or the State of Ha-
 10 waii to carry out the planning, design, and construction
 11 of any permanent water storage and conveyance facility
 12 used solely to regulate and maximize the water supply
 13 arising from a project that is eligible for assistance under
 14 this chapter or any other provision of law, including recy-
 15 cled water projects not congressionally authorized—

- 16 (1) to recycle wastewater or ground water; or
 17 (2) to use integrated and coordinated water
 18 management on a watershed or regional scale.

19 (b) FINANCIAL ASSISTANCE.—In providing financial
 20 assistance under this section, the Secretary shall give pri-
 21 ority to storage and conveyance components that—

- 22 (1) ensure the efficient and beneficial use of
 23 water or reuse of the recycled water;
 24 (2) make maximum use of natural systems;

1 (3) consistent with Secretarial Order No. 3297,
2 dated February 22, 2010, support sustainable water
3 management practices and the water sustainability
4 objectives of 1 or more offices of the Department of
5 the Interior or any other Federal agency;

6 (4)(A) increase the availability of usable water
7 supplies in a watershed or region to benefit people,
8 the economy, and the environment; and

9 (B) include adaptive measures needed to ad-
10 dress climate change and future demands;

11 (5) where practicable—

12 (A) provide flood control or recreation ben-
13 efits; and

14 (B) include the development of incremental
15 hydroelectric power generation;

16 (6) include partnerships that go beyond political
17 and institutional jurisdictions to support the effi-
18 cient use of the limited water resources of the
19 United States and the applicable region;

20 (7) generate environmental benefits, such as
21 benefits to fisheries, wildlife and habitat, and water
22 quality and water-dependent ecological systems, as
23 well as water supply benefits to agricultural and
24 urban water users; and

1 (8) the financing of which leverages private and
2 other non-Federal resources.

3 (c) FEDERAL SHARE.—The Federal share of the cost
4 of a project carried out under subsection (a) shall be—

5 (1) equal to the lesser of—

6 (A) 50 percent of total cost of the project;

7 and

8 (B) \$15,000,000, adjusted for inflation;

9 and

10 (2) nonreimbursable.

11 (d) NON-FEDERAL SHARE.—The non-Federal share
12 of the cost of a project carried out under subsection (a)
13 may include in-kind contributions to the planning, design,
14 and construction of a project.

15 (e) TITLE AND COSTS.—A non-Federal entity enter-
16 ing into a financial assistance agreement under this sec-
17 tion shall—

18 (1) hold title to all facilities constructed under
19 this section; and

20 (2) be solely responsible for the costs of oper-
21 ating and maintaining those facilities.

22 (f) APPROVAL.—The Secretary may enter into a fi-
23 nancial assistance agreement under this section, if—

1 (1) the Secretary notifies Congress of the pro-
2 posed agreement at least 90 days before the date on
3 which the Secretary enters into the agreement; and

4 (2) Congress does not pass a joint resolution
5 disapproving the agreement before such date.

6 **SEC. 232. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated \$700,000,000
8 to carry out this chapter.

9 **CHAPTER 3—RECLAMATION TITLE**

10 **TRANSFER PROGRAM**

11 **SEC. 241. SHORT TITLE; DEFINITIONS.**

12 (a) **SHORT TITLE.**—This chapter may be cited as the
13 “Reclamation Title Transfer Act of 2015”.

14 (b) **DEFINITIONS.**—In this chapter:

15 (1) **CONVEYED PROPERTY.**—The term “con-
16 veyed property” means an eligible facility that has
17 been conveyed to a qualifying entity under section
18 242(b)(1).

19 (2) **ELIGIBLE FACILITY.**—

20 (A) **IN GENERAL.**—The term “eligible fa-
21 cility” means a reclamation project or facility,
22 or a portion of a reclamation project or facility,
23 for which the United States holds title and that
24 meets the criteria for potential transfer estab-
25 lished under section 244(a).

1 (B) INCLUSIONS.—The term “eligible facil-
 2 ity” includes dams and appurtenant works, in-
 3 frastructure, recreational facilities, buildings,
 4 distribution and drainage works, and associated
 5 land or interests in land or water.

6 (3) QUALIFYING ENTITY.—The term “quali-
 7 fying entity” means a State, unit of local govern-
 8 ment, Indian tribe, municipal corporation, quasi-mu-
 9 nicipal corporation, or other entity (such as a water
 10 district) that, as determined by the Secretary, has
 11 the capacity to continue to manage the conveyed
 12 property for the same purposes that the conveyed
 13 property has been managed for under the reclama-
 14 tion laws.

15 (4) SECRETARY.—The term “Secretary” means
 16 the Secretary of the Interior, acting through the
 17 Commissioner of the Bureau of Reclamation.

18 **SEC. 242. AUTHORIZATION OF TITLE TRANSFER PROGRAM.**

19 (a) ESTABLISHMENT OF TITLE TRANSFER PRO-
 20 GRAM.—The Secretary may establish a program that—

21 (1) identifies and analyzes the potential for
 22 public benefits from the transfer out of Federal own-
 23 ership of eligible facilities, including analyses of the
 24 financial, operational, and environmental character-

1 istics of the eligible facilities proposed for transfer;
 2 and

3 (2) facilitates the transfer to qualifying entities
 4 of the title to eligible facilities to promote more effi-
 5 cient management of water and water-related facili-
 6 ties.

7 (b) AUTHORIZATION TO TRANSFER TITLE TO ELIGI-
 8 BLE FACILITIES.—

9 (1) IN GENERAL.—The Secretary may convey
 10 to a qualifying entity all right, title, and interest of
 11 the United States in and to any eligible facility, sub-
 12 ject to paragraphs (2) through (6), if—

13 (A) the Secretary notifies Congress in writ-
 14 ing of the proposed conveyance at least 90 days
 15 before the date on which the Secretary makes
 16 the conveyance; and

17 (B) Congress does not pass a joint resolu-
 18 tion disapproving the conveyance before such
 19 date.

20 (2) RIGHT OF FIRST REFUSAL.—If the entity
 21 that operates an eligible facility at the time that the
 22 Secretary attempts to facilitate the transfer of title
 23 under subsection (a)(2) is a qualifying entity, that
 24 entity shall have the right of first refusal to receive
 25 the conveyance under paragraph (1).

1 (3) RESERVATION OF EASEMENT.—The Sec-
2 retary may reserve an easement over a conveyed
3 property if the Secretary determines that the ease-
4 ment is necessary for the management of any inter-
5 ests retained by the Federal Government under this
6 chapter.

7 (4) MINERAL INTERESTS.—

8 (A) RETENTION.—The Secretary shall re-
9 tain any mineral interests associated with a
10 conveyed property.

11 (B) MANAGEMENT.—The mineral interests
12 retained under subparagraph (A) shall be man-
13 aged—

14 (i) consistent with Federal law; and

15 (ii) in a manner that would not inter-
16 fere with the purposes for which the rec-
17 lamation project was authorized.

18 (5) INTERESTS IN WATER.—No interests in
19 water shall be conveyed under this chapter unless
20 the conveyance is provided for in writing in an
21 agreement between the Secretary and the qualifying
22 entity.

23 (6) ADDITIONAL CRITERIA.—Title transfers
24 under this section shall be carried out consistent
25 with—

1 (A) this chapter; and

2 (B) any additional criteria or procedures
3 that the Secretary determines to be in the pub-
4 lic interest.

5 (c) RESTRICTIONS ON USE.—As a condition of ob-
6 taining title to an eligible facility, the qualifying entity
7 shall agree to use the eligible facility for substantially the
8 same purposes the eligible facility is being used for during
9 the period in which the eligible facility was under reclama-
10 tion ownership.

11 **SEC. 243. COMPLIANCE WITH ENVIRONMENTAL AND HIS-**
12 **TORIC PRESERVATION LAWS.**

13 (a) IN GENERAL.—Before conveying eligible facilities
14 under this chapter, the Secretary shall complete all actions
15 required under all applicable laws, including—

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

18 (2) the Endangered Species Act of 1973 (16
19 U.S.C. 1531 et seq.); and

20 (3) the National Historic Preservation Act (16
21 U.S.C. 470 et seq.).

22 (b) LIMITATION ON CONVEYANCES.—The Secretary
23 may not convey an eligible facility under this chapter if
24 the Secretary determines, as part of a review conducted
25 under the National Environmental Policy Act of 1969 and

1 with public input, that making the conveyance will lessen
2 any of the protections afforded under the laws referred
3 to in subsection (a) or is inconsistent with other applicable
4 requirements to preserve and protect environmental, cul-
5 tural, and historic assets.

6 **SEC. 244. ELIGIBILITY CRITERIA.**

7 (a) ESTABLISHMENT.—The Secretary shall establish
8 criteria for determining whether facilities are eligible for
9 conveyance under this chapter.

10 (b) MINIMUM REQUIREMENTS.—

11 (1) AGREEMENT OF QUALIFYING ENTITY.—The
12 criteria established under subsection (a) shall in-
13 clude a requirement that a qualifying entity agree—

14 (A) to accept title to the eligible facility;

15 (B) to accept all liability for the eligible fa-
16 cility, except as otherwise provided in section
17 245;

18 (C) to use the eligible facility for substan-
19 tially the same purposes the eligible facility is
20 being used for at the time the Secretary evalu-
21 ates the potential transfer; and

22 (D) to provide, as consideration for the as-
23 sets to be conveyed, compensation to the United
24 States in an amount that is the equivalent of
25 the net present value of any repayment obliga-

tion to the United States or other income stream the United States derives from the eligible facility to be transferred as of the date of the transfer, including any costs previously deemed beyond the irrigator's ability to pay and reassigned to project power customers for re-payment.

(2) DETERMINATIONS OF SECRETARY.—

(A) IN GENERAL.—The criteria established under subsection (a) shall include a requirement that the Secretary, in consultation with the Governor of any State in which the project is located, determine that the proposed transfer—

(i) would not have an unmitigated significant effect on the environment;

(ii) is uncomplicated, based on, as determined by the Secretary—

(I) there being no significant opposition to the proposed transfer;

(II) the eligible facility not being hydrologically, operationally, or financially integrated with other Federal or non-Federal water projects;

1 (III) the eligible facility not gen-
2 erating electric power sold to, or eligi-
3 ble to be sold to, power customers
4 (other than the project itself); and

5 (IV) the parties to the transfer
6 being able to reach agreement on
7 legal, institutional, and financial ar-
8 rangements relating to the convey-
9 ance;

10 (iii) is consistent with the responsi-
11 bility of the Secretary—

12 (I) to protect land and water re-
13 sources held in trust for federally rec-
14 ognized Indian tribes; and

15 (II) to ensure compliance with
16 any applicable international treaties
17 and interstate compacts; and

18 (iv) is in the financial interest of the
19 United States.

20 (B) PUBLICATION.—The Secretary shall
21 make publically available information on how
22 the Secretary made the determinations under
23 subparagraph (A).

24 (3) STATUS OF RECLAMATION LAND.—The cri-
25 teria established under subsection (a) shall require

1 that any land to be conveyed out of Federal owner-
2 ship under this Act is—

3 (A) land acquired by the Secretary; or

4 (B) land withdrawn by the Secretary, only
5 if—

6 (i) the Secretary determines in writing
7 that the withdrawn land is encumbered by
8 reclamation project facilities to the extent
9 that the withdrawn land is unsuitable for
10 return to the public domain; and

11 (ii) the qualifying entity agrees to pay
12 fair market value for the withdrawn land
13 to be conveyed.

14 **SEC. 245. LIABILITY.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), effective beginning on the date of conveyance of any
17 eligible facility under this chapter, the United States shall
18 not be liable under any law for damages of any kind aris-
19 ing out of any act, omission, or occurrence based on the
20 prior ownership or operation of the conveyed property.

21 (b) LIMITATION.—Notwithstanding subsection (a),
22 the United States shall retain the responsibilities and au-
23 thorities of the United States for a conveyed property
24 based on the prior ownership or operation of the conveyed
25 property by the United States under Federal environ-

1 mental laws, including the Comprehensive Environmental
2 Response, Compensation, and Liability Act of 1980 (42
3 U.S.C. 9601 et seq.).

4 **SEC. 246. BENEFITS.**

5 After a conveyance of an eligible facility under this
6 chapter—

7 (1) the conveyed property shall no longer be
8 considered to be a part of a reclamation project; and

9 (2) the entity to which the conveyed property is
10 conveyed shall not be eligible to receive any benefits
11 with respect to the conveyed property (including
12 project power), except for benefits that would be
13 available to a similarly situated entity with respect
14 to property that is not part of a reclamation project.

15 **SEC. 247. COMPLIANCE WITH OTHER LAWS.**

16 (a) IN GENERAL.—After a conveyance of title under
17 this chapter, the qualifying entity to which the property
18 is conveyed shall comply with all applicable Federal, State,
19 and local laws (including regulations) in the operation of
20 the conveyed property.

21 (b) EFFECT.—

22 (1) IN GENERAL.—Nothing in this chapter shall
23 affect or interfere with—

24 (A) the laws of any State relating to the
25 control, appropriation, use, or distribution of

1 water used in irrigation or for any other pur-
2 pose;

3 (B) any vested right acquired under State
4 law; or

5 (C) any interstate compact, decree, or ne-
6 gotiated water rights agreement.

7 (2) CONFORMITY WITH STATE LAW.—In car-
8 rying out this chapter, the Secretary shall proceed in
9 conformity with the State laws and rights acquired
10 under State law described in paragraph (1).

11 **SEC. 248. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—There are authorized to be appro-
13 priated to carry out this chapter such sums as are nec-
14 essary.

15 (b) USE OF AMOUNTS.—Amounts made available
16 under subsection (a) may be used—

17 (1) to carry out the investigations to carry out
18 this chapter; and

19 (2) to pay any other costs associated with con-
20 veyances under this chapter, including an appro-
21 priate Federal share of the costs of compliance with
22 the National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.) and other applicable law.

24 (c) NOT TREATED AS PROJECT COSTS.—Expendi-
25 tures made by the Secretary under this chapter—

1 (1) shall not be a project cost assignable to a
2 reclamation project; and

3 (2) shall be nonreimbursable.

4 **SEC. 249. TERMINATION OF AUTHORITY.**

5 The authority of the Secretary to carry out convey-
6 ances under this chapter shall terminate 15 years after
7 the date of enactment of this Act.

8 **Subtitle C—Innovative Stormwater**
9 **Capture Program**

10 **SEC. 251. SHORT TITLE.**

11 This subtitle may be cited as the “Innovative
12 Stormwater Infrastructure Act of 2015”.

13 **SEC. 252. PURPOSES AND FINDINGS.**

14 Congress finds that—

15 (1) many water resources in the United States
16 are declining, particularly in urban and agricultural
17 areas;

18 (2) the decline of water resources is the result
19 of—

20 (A) an increase in population, water con-
21 sumption, and impermeable surfaces; and

22 (B) the negative effects of urbanization,
23 commercial and industrial activities, and in-
24 creasing and persistent droughts;

(3) an October 2008 study by the National Research Council found that some of the benefits of innovative stormwater control infrastructure include—

(A) increased water supplies;

(B) the creation of jobs;

(C) cost savings; and

(D) a reduction of stormwater runoff, surface water discharge, stormwater pollution, and stormwater flows to protect and restore natural hydrology, meeting local conditions to the maximum extent feasible; and

(4) capturing stormwater runoff in urban and suburban areas of the State of California can increase water supplies by over 600,000 acre-feet annually, and that similar benefits are achievable in the urban and suburban areas of other States.

SEC. 253. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) CENTER.—The term “center” means a center of excellence for innovative stormwater control infrastructure established under section 4(a).

1 (3) ELIGIBLE ENTITY.—The term “eligible enti-
2 ty” means—

3 (A) a State, tribal, or local government; or

4 (B) a local, regional, or other entity that
5 manages stormwater, drinking water resources,
6 or waste water resources.

7 (4) ELIGIBLE INSTITUTION.—

8 (A) IN GENERAL.—The term “eligible in-
9 stitution” means an institution of higher edu-
10 cation (as defined in section 101 of the Higher
11 Education Act of 1965 (20 U.S.C. 1001)), or a
12 research institution, that has demonstrated ex-
13 cellence in innovative stormwater control infra-
14 structure by—

15 (i) conducting research on innovative
16 stormwater control infrastructure to deter-
17 mine the means by which innovative infra-
18 structure reduces stormwater runoff, en-
19 hances and protects drinking water
20 sources, and improves water quality;

21 (ii) developing and disseminating in-
22 formation regarding the means by which
23 an organization can use innovative
24 stormwater control infrastructure;

- 1 (iii) providing technical assistance to
- 2 an organization for an innovative
- 3 stormwater control infrastructure project;
- 4 (iv) developing best practices stand-
- 5 ards for innovative stormwater control in-
- 6 frastructure;
- 7 (v) providing job training relating to
- 8 innovative stormwater control infrastruc-
- 9 ture;
- 10 (vi) developing course curricula for—
- 11 (I) elementary schools (as defined
- 12 in section 9101 of the Elementary and
- 13 Secondary Education Act of 1965 (20
- 14 U.S.C. 7801));
- 15 (II) secondary schools (as defined
- 16 in that section);
- 17 (III) institutions of higher edu-
- 18 cation (as defined in section 101 of
- 19 the Higher Education Act of 1965 (20
- 20 U.S.C. 1001)); or
- 21 (IV) vocational schools;
- 22 (vii) training students regarding inno-
- 23 vative stormwater control infrastructure; or
- 24 (viii) providing information to the
- 25 Federal Government or State, tribal, and

1 local governments regarding the implemen-
2 tation of innovative stormwater control in-
3 frastructure.

4 (B) ASSOCIATED DEFINITION.—For pur-
5 poses of subparagraph (A), the term “research
6 institution” means an entity that is—

7 (i) described in section 501(c)(3) of
8 the Internal Revenue Code of 1986;

9 (ii) exempt from tax under section
10 501(a) of the Internal Revenue Code of
11 1986; and

12 (iii) organized and operated for re-
13 search purposes.

14 (5) INDIAN TRIBE.—The term “Indian tribe”
15 has the meaning given the term in section 518(h) of
16 the Federal Water Pollution Control Act (33 U.S.C.
17 1377(h)).

18 (6) STATE.—The term “State” means—

19 (A) each of the several States of the
20 United States;

21 (B) the District of Columbia;

22 (C) the Commonwealth of Puerto Rico;

23 (D) Guam;

24 (E) American Samoa;

- 1 (F) the Commonwealth of the Northern
- 2 Mariana Islands;
- 3 (G) the Federated States of Micronesia;
- 4 (H) the Republic of the Marshall Islands;
- 5 (I) the Republic of Palau; and
- 6 (J) the United States Virgin Islands.

7 (7) INNOVATIVE STORMWATER CONTROL INFRA-
8 STRUCTURE.—

9 (A) IN GENERAL.—The term “innovative
10 stormwater control infrastructure” means any
11 green infrastructure stormwater management
12 technique that—

13 (i) uses natural systems or engineered
14 systems that mimic natural processes to
15 infiltrate, evapotranspire, or capture
16 stormwater; and

17 (ii) preserves, enhances, or mimics
18 natural hydrology to protect or restore
19 water quality.

20 (B) INCLUSIONS.—The term “innovative
21 stormwater control infrastructure” includes—

22 (i) methods that promote absorption,
23 uptake, percolation, evapotranspiration,
24 and filtration by soil and plant life; and

1 (ii) the preservation or restoration
2 of—

3 (I) natural topography, including
4 hills, plains, ravines, and shorelines;

5 (II) interconnected networks of
6 natural land that protect essential ec-
7 ological functions critical for water
8 quality;

9 (III) ecological function, includ-
10 ing forests, grasslands, and deserts;

11 (IV) bodies of water, including
12 lakes, flood plains, headwaters, and
13 wetlands; and

14 (V) native soil characteristics of
15 composition, structure, and
16 transmissivity.

17 **SEC. 254. CENTERS OF EXCELLENCE FOR INNOVATIVE**
18 **STORMWATER CONTROL INFRASTRUCTURE.**

19 (a) ESTABLISHMENT OF CENTERS.—

20 (1) IN GENERAL.—The Administrator shall pro-
21 vide grants, on a competitive basis, to eligible insti-
22 tutions to establish and maintain not less than 3,
23 and not more than 5, centers of excellence for inno-
24 vative stormwater control infrastructure, to be lo-

1 cated in various regions throughout the United
2 States.

3 (2) GENERAL OPERATION.—Each center
4 shall—

5 (A) conduct research on innovative
6 stormwater control infrastructure that is rel-
7 evant to the geographical region in which the
8 center is located, including stormwater and
9 sewer overflow reduction, other approaches to
10 water resource enhancement, and other environ-
11 mental, economic, and social benefits;

12 (B) develop manuals and establish industry
13 standards on best management practices relat-
14 ing to State, tribal, local, and commercial inno-
15 vative stormwater control infrastructure for use
16 by State, tribal, and local governments and the
17 private sector;

18 (C) develop and administer testing and
19 evaluation protocols to measure and verify the
20 performance of stormwater infrastructure prod-
21 ucts and practices;

22 (D) provide information regarding research
23 conducted under subparagraph (A), manuals
24 developed under subparagraph (B), and testing
25 and evaluation performed under subparagraph

1 (C) to the national electronic clearinghouse cen-
2 ter for publication on the Internet website es-
3 tablished under subsection (c) to provide to the
4 Federal Government and State, tribal, and local
5 governments and the private sector information
6 regarding innovative stormwater control infra-
7 structure;

8 (E) provide technical assistance to State,
9 tribal, and local governments to assist with the
10 construction, operation, and maintenance of in-
11 novative stormwater control infrastructure
12 projects;

13 (F) collaborate with institutions of higher
14 education and private and public organizations
15 in the geographical region in which the center
16 is located on innovative stormwater control in-
17 frastructure research and technical assistance
18 projects;

19 (G) assist institutions of higher education,
20 secondary schools, and vocational schools to de-
21 velop innovative stormwater control infrastruc-
22 ture curricula;

23 (H) provide training regarding innovative
24 stormwater control infrastructure to institutions
25 of higher education and professional schools;

1 (I) evaluate regulatory and policy issues
2 relating to innovative stormwater control infra-
3 structure; and

4 (J) coordinate with the other centers to
5 avoid duplication of efforts.

6 (b) APPLICATION.—To be eligible to receive a grant
7 under this section, an eligible institution shall prepare and
8 submit to the Administrator an application at such a time,
9 in such form, and containing such information as the Ad-
10 ministrator may require.

11 (c) NATIONAL ELECTRONIC CLEARINGHOUSE CEN-
12 TER.—Of the centers established under subsection (a)(1),
13 one shall—

14 (1) be designated as the “national electronic
15 clearinghouse center”; and

16 (2) in addition to the other functions of that
17 center—

18 (A) develop, operate, and maintain an
19 Internet website and a public database that
20 contain information relating to innovative
21 stormwater control infrastructure; and

22 (B) post to the website information from
23 all centers.

1 **SEC. 255. INNOVATIVE STORMWATER CONTROL INFRA-**
2 **STRUCTURE PROJECT GRANTS.**

3 (a) GRANT AUTHORITY.—The Administrator shall
4 provide grants, on a competitive basis, to eligible entities
5 to carry out innovative stormwater control infrastructure
6 projects in accordance with this section.

7 (b) INNOVATIVE STORMWATER CONTROL INFRA-
8 STRUCTURE PROJECTS.—

9 (1) PLANNING AND DEVELOPMENT GRANTS.—
10 The Administrator may make planning and develop-
11 ment grants under this section for the following
12 projects:

13 (A) Planning and designing innovative
14 stormwater control infrastructure projects, in-
15 cluding engineering surveys, landscape plans,
16 maps, and implementation plans.

17 (B) Identifying and developing standards
18 and revisions to local zoning, building, or other
19 local codes necessary to accommodate innova-
20 tive stormwater control infrastructure projects.

21 (C) Identifying and developing fee struc-
22 tures to provide financial support for design, in-
23 stallation, and operations and maintenance of
24 innovative stormwater control infrastructure.

1 (D) Developing training and educational
2 materials regarding innovative stormwater con-
3 trol infrastructure for distribution to—

4 (i) individuals and entities with appli-
5 cable technical knowledge; and

6 (ii) the public.

7 (E) Developing an innovative stormwater
8 control infrastructure portfolio standard pro-
9 gram described in section 6(e).

10 (2) IMPLEMENTATION GRANTS.—The Adminis-
11 trator may make implementation grants under this
12 section for the following projects:

13 (A) Installing innovative stormwater con-
14 trol infrastructure.

15 (B) Protecting or restoring interconnected
16 networks of natural areas that protect water
17 quality.

18 (C) Monitoring and evaluating the environ-
19 mental, economic, or social benefits of innova-
20 tive stormwater control infrastructure.

21 (D) Implementing a best practices stand-
22 ard for an innovative stormwater control infra-
23 structure program.

1 (E) Implementing an innovative
2 stormwater control infrastructure portfolio
3 standard program described in section 6(e).

4 (c) APPLICATION.—Except as otherwise provided in
5 this Act, to be eligible to receive a grant under this section,
6 an eligible entity shall prepare and submit to the Adminis-
7 trator an application at such time, in such form, and con-
8 taining such information as the Administrator may re-
9 quire, including, as applicable—

10 (1) a description of the innovative stormwater
11 control infrastructure project;

12 (2) a plan for monitoring the impacts of the in-
13 novative stormwater control infrastructure project
14 on the water quality and quantity;

15 (3) an evaluation of other environmental, eco-
16 nomic, and social benefits of the innovative
17 stormwater control infrastructure project; and

18 (4) a plan for the long-term operation and
19 maintenance of the innovative stormwater control in-
20 frastructure project.

21 (d) ADDITIONAL REQUIREMENT FOR INNOVATIVE
22 STORMWATER CONTROL INFRASTRUCTURE PORTFOLIO
23 STANDARD PROJECT.—In addition to an application
24 under subsection (c), a State or Indian tribe applying for
25 a grant for an innovative stormwater control infrastruc-

1 ture portfolio standard program described in section 6(e)
2 shall prepare and submit to the Administrator a schedule
3 of increasing minimum percentages of the annual water
4 to be managed using innovative stormwater control infra-
5 structure under the program.

6 (e) PRIORITY.—In making grants under this section,
7 the Administrator shall give priority to applications sub-
8 mitted on behalf of—

9 (1) a community that—

10 (A) has combined storm and sanitary sew-
11 ers in the collection system of the community;
12 or

13 (B) is a low-income or disadvantaged com-
14 munity, as determined by the Administrator; or

15 (2) an eligible entity that will use not less than
16 10 percent of the grant to provide service to a low-
17 income or disadvantaged community, as determined
18 by the Administrator.

19 (f) MAXIMUM AMOUNTS.—

20 (1) PLANNING AND DEVELOPMENT GRANTS.—

21 (A) SINGLE GRANT.—The amount of a sin-
22 gle planning and development grant provided
23 under this section shall be not more than
24 \$200,000.

1 (B) AGGREGATE AMOUNT.—The total
2 amount of all planning and development grants
3 provided under this section for a fiscal year
4 shall be not more than $\frac{1}{3}$ of the total amount
5 made available to carry out this section.

6 (2) IMPLEMENTATION GRANTS.—

7 (A) SINGLE GRANT.—The amount of a sin-
8 gle implementation grant provided under this
9 section shall be not more than \$3,000,000.

10 (B) AGGREGATE AMOUNT.—The total
11 amount of all implementation grants provided
12 under this section for a fiscal year shall be not
13 more than $\frac{2}{3}$ of the total amount made avail-
14 able to carry out this section.

15 (g) FEDERAL SHARE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (3), the Federal share of a grant provided
18 under this section shall not exceed 65 percent of the
19 total project cost.

20 (2) CREDIT FOR IMPLEMENTATION GRANTS.—

21 The Administrator shall credit toward the non-Fed-
22 eral share of the cost of an implementation project
23 carried out under this section the cost of planning,
24 design, and construction work completed for the

1 project using funds other than funds provided under
2 this Act.

3 (3) EXCEPTION.—The Administrator may waive
4 the Federal share limitation under paragraph (1) for
5 an eligible entity that has adequately demonstrated
6 financial need.

7 **SEC. 256. ENVIRONMENTAL PROTECTION AGENCY INNOVA-**
8 **TIVE STORMWATER CONTROL INFRASTRUC-**
9 **TURE PROMOTION.**

10 (a) IN GENERAL.—The Administrator shall ensure
11 that the Office of Water, the Office of Enforcement and
12 Compliance, the Office of Research and Development, and
13 the Office of Policy of the Environmental Protection Agen-
14 cy promote the use of innovative stormwater control infra-
15 structure in and coordinate the integration of innovative
16 stormwater control infrastructure into permitting pro-
17 grams, planning efforts, research, technical assistance,
18 and funding guidance.

19 (b) DUTIES.—The Administrator shall ensure that
20 the Office of Water—

21 (1) promotes the use of innovative stormwater
22 control infrastructure in the programs of the Envi-
23 ronmental Protection Agency;

24 (2) supports establishing public-private partner-
25 ships and other innovative financing mechanisms in

1 the implementation of innovative stormwater control
2 infrastructure; and

3 (3) coordinates efforts to increase the use of in-
4 novative stormwater control infrastructure with—

5 (A) other Federal departments and agen-
6 cies;

7 (B) State, tribal, and local governments;
8 and

9 (C) the private sector.

10 (c) REGIONAL INNOVATIVE STORMWATER CONTROL
11 INFRASTRUCTURE PROMOTION.—The Administrator shall
12 direct each regional office of the Environmental Protection
13 Agency, as appropriate based on local factors, to promote
14 and integrate the use of innovative stormwater control in-
15 frastructure within the region that includes—

16 (1) a plan for monitoring, financing, mapping,
17 and designing the innovative stormwater control in-
18 frastructure;

19 (2) outreach and training regarding innovative
20 stormwater control infrastructure implementation
21 for State, tribal, and local governments, tribal com-
22 munities, and the private sector; and

23 (3) the incorporation of innovative stormwater
24 control infrastructure into permitting and other reg-
25 ulatory programs, codes, and ordinance development,

1 including the requirements under consent decrees
2 and settlement agreements in enforcement actions.

3 (d) INNOVATIVE STORMWATER CONTROL INFRA-
4 STRUCTURE INFORMATION-SHARING.—The Administrator
5 shall promote innovative stormwater control infrastructure
6 information-sharing, including through an Internet
7 website, to share information with, and provide technical
8 assistance to, State, tribal, and local governments, tribal
9 communities, the private sector, and the public regarding
10 innovative stormwater control infrastructure approaches
11 for—

- 12 (1) reducing water pollution;
- 13 (2) protecting water resources;
- 14 (3) complying with regulatory requirements;
- 15 and
- 16 (4) achieving other environmental, public
17 health, and community goals.

18 (e) INNOVATIVE STORMWATER CONTROL INFRA-
19 STRUCTURE PORTFOLIO STANDARD.—The Administrator,
20 in collaboration with State, tribal, and local water resource
21 managers, shall establish voluntary measurable goals, to
22 be known as the “innovative stormwater control infra-
23 structure portfolio standard”, to increase the percentage
24 of annual water managed by eligible entities that use inno-
25 vative stormwater control infrastructure.

1 **SEC. 257. REPORT TO CONGRESS.**

2 Not later than September 30, 2017, the Adminis-
3 trator shall submit to Congress a report that includes,
4 with respect to the period covered by the report—

5 (1) a description of all grants provided under
6 this Act;

7 (2) a detailed description of—

8 (A) the projects supported by those grants;

9 and

10 (B) the outcomes of those projects;

11 (3) a description of the improvements in tech-
12 nology, environmental benefits, resources conserved,
13 efficiencies, and other benefits of the projects funded
14 under this Act;

15 (4) recommendations for improvements to pro-
16 mote and support innovative stormwater control in-
17 frastructure for the centers, grants, and activities
18 under this Act; and

19 (5) a description of existing challenges con-
20 cerning the use of innovative stormwater control in-
21 frastructure.

22 **SEC. 258. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to carry out
24 this Act such sums as are necessary for each of fiscal
25 years 2016 through 2021.

1 **TITLE III—IMPROVED INFRA-**
2 **STRUCTURE AND WATER**
3 **MANAGEMENT**

4 **Subtitle A—Restoring America’s**
5 **Watersheds and Increasing**
6 **Water Yields**

7 **SEC. 301. SHORT TITLE.**

8 This subtitle may be cited as the “Restoring Amer-
9 ica’s Watersheds Act of 2015”.

10 **SEC. 302. FINDINGS.**

11 Congress makes the following findings:

12 (1) Watershed health and effective headwaters
13 management can have multiple benefits for water
14 supply reliability, water quality, and ecosystems.

15 (2) Investments to restore meadows, forests,
16 and watersheds will improve their critical
17 hydrological functions and reduce wildfire impacts.

18 (3) Proper ecosystem restoration could increase
19 groundwater storage by 50,000 to 500,000 acre-feet
20 per year just within the National Forest System
21 lands in the Sierra bioregion of the State of Cali-
22 fornia.

23 (4) Improved headwaters management would
24 have a similarly significant impact on groundwater

1 storage within National Forest System lands across
2 the western States.

3 (5) Source watersheds are recognized and de-
4 fined as an integral part of federally funded water
5 systems.

6 **SEC. 303. WATER SOURCE PROTECTION PROGRAM.**

7 Subtitle A of title III of the Omnibus Public Land
8 Management Act of 2009 (Public Law 111–11; 123 Stat.
9 1126) is amended by adding at the end the following:

10 **“SEC. 3002. WATER SOURCE PROTECTION PROGRAM.**

11 “(a) IN GENERAL.—The Secretary of Agriculture,
12 acting through the Chief of the Forest Service (referred
13 to in this section as the ‘Secretary’), shall establish and
14 maintain a Water Source Protection Program (referred to
15 in this section as the ‘Program’) within the National For-
16 est System west of the 100th Meridian.

17 “(b) WATER SOURCE INVESTMENT PARTNER-
18 SHIPS.—

19 “(1) IN GENERAL.—In carrying out the Pro-
20 gram, the Secretary may enter into water source in-
21 vestment partnerships with end water users (includ-
22 ing States, political subdivisions, Indian tribes, utili-
23 ties, municipal water systems, irrigation districts,
24 nonprofit organizations, and corporations) to protect
25 and restore the condition of National Forest water-

1 sheds that provide water to the non-Federal part-
2 ners.

3 “(2) FORM.—A partnership described in para-
4 graph (1) may take the form of memoranda of un-
5 derstanding, cost-share or collection agreements,
6 long-term match funding commitments, or other ap-
7 propriate instruments.

8 “(c) WATER SOURCE MANAGEMENT PLAN.—

9 “(1) IN GENERAL.—In carrying out the Pro-
10 gram, the Secretary may produce a water source
11 management plan in cooperation with the water
12 source investment partnership participants and
13 State, local, and tribal governments.

14 “(2) FIREWOOD.—A water source management
15 plan may give priority to projects that facilitate the
16 gathering of firewood for personal use pursuant to
17 section 223.5 of title 36, Code of Federal Regula-
18 tions (or successor regulations).

19 “(3) ENVIRONMENTAL ANALYSIS.—The Sec-
20 retary may conduct—

21 “(A) a single environmental impact state-
22 ment or similar analysis required under the Na-
23 tional Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.) for all or part of the res-

1 toration projects in the water source manage-
2 ment plan; and

3 “(B) a statement or analysis described in
4 subparagraph (A) as part of the development of
5 the water source management plan or after the
6 finalization of the plan.

7 “(4) ENDANGERED SPECIES ACT.—In carrying
8 out the Program, the Secretary may use the Manual
9 on Adaptive Management of the Department of the
10 Interior, including any associated guidance, for pur-
11 poses of fulfilling any requirements under the En-
12 dangered Species Act of 1973 (16 U.S.C. 1531 et
13 seq.).

14 “(5) FUNDS AND SERVICES.—

15 “(A) IN GENERAL.—In carrying out the
16 Program, the Secretary may accept and use
17 funding, services, and other forms of investment
18 and assistance from water source investment
19 partnership participants to implement the water
20 source management plan.

21 “(B) MANNER OF USE.—The Secretary
22 may accept and use investments described in
23 subparagraph (A) directly or indirectly through
24 the National Forest Foundation.

1 “(C) WATER SOURCE PROTECTION
2 FUND.—

3 “(i) IN GENERAL.—Subject to the
4 availability of appropriations, the Secretary
5 may establish a Water Source Protection
6 Fund to match funds or in-kind support
7 contributed by water source investment
8 partnership participants under subpara-
9 graph (A).

10 “(ii) USE OF APPROPRIATED
11 FUNDS.—The Secretary may use funds ap-
12 propriated to carry out this subparagraph
13 to make multiyear commitments, if nec-
14 essary, to implement 1 or more water
15 source investment partnership agree-
16 ments.”.

17 **SEC. 304. WATERSHED CONDITION FRAMEWORK.**

18 Subtitle A of title III of the Omnibus Public Land
19 Management Act of 2009 (Public Law 111–11; 123 Stat.
20 1126) is amended by inserting after section 3002, as
21 added by section 303, the following:

22 **“SEC. 3003. WATERSHED CONDITION FRAMEWORK.**

23 “(a) IN GENERAL.—The Secretary of Agriculture,
24 acting through the Chief of the Forest Service (referred
25 to in this section as the ‘Secretary’), shall establish and

1 maintain a Watershed Condition Framework within the
2 National Forest System west of the 100th Meridian—

3 “(1) to evaluate and classify the condition of
4 watersheds, taking into consideration—

5 “(A) water quality and quantity;

6 “(B) aquatic habitat and biota;

7 “(C) riparian and wetland vegetation;

8 “(D) the presence of roads and trails;

9 “(E) soil type and condition;

10 “(F) groundwater-dependent ecosystems;

11 “(G) relevant terrestrial indicators, such as
12 fire regime, risk of catastrophic fire, forest and
13 rangeland vegetation, invasive species, and in-
14 sects and disease; and

15 “(H) other significant factors, as deter-
16 mined by the Secretary;

17 “(2) to identify for restoration up to 5 priority
18 watersheds in each National Forest, and up to 2 pri-
19 ority watersheds in each national grassland, taking
20 into consideration the impact of the condition of the
21 watershed condition on—

22 “(A) wildfire behavior;

23 “(B) flood risk;

24 “(C) fish and wildlife;

25 “(D) drinking water supplies;

1 “(E) irrigation water supplies;

2 “(F) forest-dependent communities; and

3 “(G) other significant impacts, as deter-
4 mined by the Secretary;

5 “(3) to develop a watershed restoration action
6 plan for each priority watershed that—

7 “(A) takes into account existing restora-
8 tion activities being implemented in the water-
9 shed; and

10 “(B) includes, at a minimum—

11 “(i) the major stressors responsible
12 for the impaired condition of the water-
13 shed;

14 “(ii) a set of essential projects that,
15 once completed, will address the identified
16 stressors and improve watershed condi-
17 tions;

18 “(iii) a proposed implementation
19 schedule;

20 “(iv) potential partners and funding
21 sources; and

22 “(v) a monitoring and evaluation pro-
23 gram;

24 “(4) to prioritize restoration activities for each
25 watershed restoration action plan;

1 “(5) to implement each watershed restoration
2 action plan; and

3 “(6) to monitor the effectiveness of restoration
4 actions and indicators of watershed health.

5 “(b) COORDINATION.—Throughout the establishment
6 and maintenance of the Watershed Condition Framework,
7 the Secretary shall—

8 “(1) coordinate with interested non-Federal
9 landowners and with State, tribal, and local govern-
10 ments within the relevant watershed; and

11 “(2) provide for an active and ongoing public
12 engagement process.

13 “(c) EMERGENCY DESIGNATION.—Notwithstanding
14 subsection (a)(2), the Secretary may identify a watershed
15 as a priority for rehabilitation in the Watershed Condition
16 Framework without using the process described in sub-
17 section (a), if the appropriate Forest Supervisor deter-
18 mines that—

19 “(1) a wildfire has significantly diminished the
20 condition of the watershed; and

21 “(2) the emergency stabilization activities of the
22 Burned Area Emergency Response Team are insuffi-
23 cient to return the watershed to proper function.”.

1 **SEC. 305. FOREST SERVICE LEGACY ROADS AND TRAILS RE-**
2 **MEDIATION PROGRAM.**

3 (a) IN GENERAL.—The Secretary of Agriculture, act-
4 ing through the Chief of the Forest Service (referred to
5 in this section as the “Secretary”), shall establish and
6 maintain a Forest Service Legacy Roads and Trails Reme-
7 diation Program (referred to in this section as the “Pro-
8 gram”) within the National Forest System west of the
9 100th Meridian—

10 (1) to carry out critical maintenance and urgent
11 repairs and improvements on National Forest Sys-
12 tem roads, trails, and bridges;

13 (2) to restore fish and other aquatic organism
14 passage by removing or replacing unnatural barriers
15 to the passage of fish and other aquatic organisms;

16 (3) to decommission unneeded roads and trails;
17 and

18 (4) to carry out associated activities.

19 (b) PRIORITY.—In implementing the Program, the
20 Secretary shall give priority to projects that protect or re-
21 store—

22 (1) water quality;

23 (2) watersheds that feed public drinking water
24 systems; or

25 (3) habitat for threatened, endangered, and
26 sensitive fish and wildlife species.

1 (c) NATIONAL FOREST SYSTEM.—Except as author-
 2 ized under section 323 of the Department of the Interior
 3 and Related Agencies Appropriations Act, 1999 (16
 4 U.S.C. 1011a), all projects carried out under the Program
 5 shall be on National Forest System roads.

6 (d) NATIONAL PROGRAM STRATEGY.—Not later than
 7 180 days after the date of enactment of this Act, the Sec-
 8 retary shall develop a national strategy for implementing
 9 the Program.

10 **SEC. 306. REAUTHORIZATION OF THE COLLABORATIVE**
 11 **FOREST LANDSCAPE RESTORATION FUND.**

12 Section 4003(f)(6) of the Omnibus Public Land Man-
 13 agement Act of 2009 (16 U.S.C. 7303(f)(6)) is amended
 14 by striking “2019, to remain available until expended”
 15 and inserting “2015, and \$80,000,000 for each of fiscal
 16 years 2016 through 2024, to remain available until ex-
 17 pended”.

18 **Subtitle B—Reservoir Operation**
 19 **Improvement**

20 **SEC. 311. SHORT TITLE.**

21 This subtitle may be cited as the “Five Demonstra-
 22 tions of Advancing Yields by Fixing Operations of Res-
 23 ervoirs to Encompass Climatic and Atmospheric Science
 24 Trends Act”.

1 **SEC. 312. PROJECTS, PLANS, AND REPORTS.**

2 (a) SPECIFIC INFORMATION.—Not later than 90 days
3 after the date of enactment of this Act, the Secretary of
4 the Army shall provide to the Committees on Appropria-
5 tions of the House of Representatives and the Senate a
6 report including the following information for any State
7 under a gubernatorial drought declaration during water
8 year 2015:

9 (1) A list of Army Corps and non-Army Corps
10 (section 7 of the Flood Control Act of 1944 (33
11 U.S.C. 709)) projects that have a water control
12 plan.

13 (2) The year the original water control manual
14 was approved.

15 (3) The year for any subsequent revisions to
16 the project's water control plan and manual.

17 (4) A list of projects in which operational devi-
18 ations for drought contingency have been requested
19 or implemented and the status of the request.

20 (5) How water conservation and water quality
21 improvements were addressed.

22 (6) A list of projects where permanent changes
23 to storage allocations have been requested and the
24 status of the request.

25 (b) IDENTIFICATION OF PROJECTS.—Not later than
26 60 days after completion of the report under subsection

1 (a), the Secretary of the Army, in consultation with the
2 National Oceanic and Atmospheric Administration, shall
3 identify any projects from the report that meet the fol-
4 lowing criteria:

5 (1) Located in a State in which a drought
6 emergency has been declared or was in effect during
7 the 1-year period preceding the date of completion
8 of the report by the Secretary under subsection (a).

9 (2) Future revision of a water operations man-
10 ual, including flood control rule curves, based on the
11 better use of improved weather forecasting or run-
12 off forecasting methods, new watershed data, or
13 changes to project operations, would be likely to en-
14 hance the existing authorized project purposes for
15 water supply storage capacity and reliability, or
16 flood control operations.

17 (c) ADDITIONAL PROJECTS.—In addition, not later
18 than 60 days after completion of the report in subsection
19 (a), the Secretary of the Army shall identify any non-
20 Corps projects that meet the criteria in subsection (b) and
21 the following 2 criteria:

22 (1) The owner of the non-Corps project has
23 submitted to the Secretary of the Army a formal re-
24 quest to review or revise the operations manual or
25 flood control rule curves to accommodate new water-

1 shed data or projected project modifications or oper-
2 ational changes.

3 (2) The modifications or operational changes
4 proposed by the owner of the non-Corps projects are
5 likely to enhance water supply benefits and flood
6 control operations.

7 (d) PILOT PROJECTS.—Not later than 1 year after
8 identification of the projects in subsections (b) and (c),
9 if any, the Secretary of the Army, in consultation with
10 the National Oceanic and Atmospheric Administration,
11 shall establish not more than 5 pilot projects to implement
12 forecast-based reservoir operations.

13 (e) COORDINATION WITH NON-FEDERAL PROJECT
14 SPONSOR.—

15 (1) IN GENERAL.—If any of the projects identi-
16 fied in subsections (b) and (c) are non-Federal
17 projects, the Secretary of the Army, prior to car-
18 rying out an activity under this section, shall consult
19 with the non-Federal project sponsor and enter into
20 a cooperative agreement, memorandum of under-
21 standing, or other agreement with the non-Federal
22 project sponsor.

23 (2) DEFINITION.—In this subsection, the term
24 “non-Federal project sponsor” means an entity or a
25 local government entity, including a municipal water

1 district, that currently manages (in whole or in part)
2 an Army Corps of Engineers dam or reservoir.

3 (f) FORECAST-BASED RESERVOIR OPERATIONS
4 PLAN.—As part of the pilot project under subsection (d),
5 the Secretary, in consultation with the National Oceanic
6 and Atmospheric Administration, in designing and imple-
7 menting a forecast-based reservoir operations plan, shall
8 include the following:

9 (1) The relationship between ocean and atmos-
10 pheric conditions, including the El Niño and La
11 Niña cycles, and the potential for above normal, nor-
12 mal, and below normal rainfall for the coming water
13 year.

14 (2) The precipitation and runoff index specific
15 to the basin and watershed of the relevant dam or
16 reservoir, including incorporating information about
17 hydrological and meteorological conditions that influ-
18 ence the timing and quantity of runoff.

19 (3) Improved hydrologic forecasting for precipi-
20 tation, snowpack, streamflow, and soil moisture con-
21 ditions.

22 (4) An adjustment of operational flood control
23 rule curves to optimize water supply storage and re-
24 liability, hydropower production, environmental bene-

1 fits for flows and temperature, and other authorized
2 project benefits, without a reduction in flood safety.

3 (5) Proactive management in response to
4 changes in forecasts.

5 (g) NON-FEDERAL FUNDS.—Upon finalizing an
6 agreement with a non-Federal project sponsor pursuant
7 to subsection (e), the Secretary of the Army may accept
8 non-Federal funds for all or a portion of the cost of car-
9 rying out a review or revision of water control manuals
10 and flood control rule curves.

11 (h) NO ADDITIONAL AUTHORITY.—Revisions of the
12 manuals referred to in subsection (b) shall not interfere
13 with authorized purposes. Nothing in this Act authorizes
14 the Secretary of the Army to carry out, at a Corps of En-
15 gineers dam or reservoir, any project for a purpose not
16 otherwise authorized as of the date of enactment of this
17 Act.

18 (i) CONSULTATION.—In implementing the pilot
19 projects pursuant to subsection (d), the Secretary of the
20 Army may consult with other affected interests, including
21 non-Federal entities responsible for operations and main-
22 tenance costs of a Corps facility, affected water rights
23 holders, individuals and entities with storage entitlements,
24 and local agencies with flood control responsibilities down-
25 stream of a Corps facility.

1 (j) CHANGE TO OPERATIONS MANUAL.—Not later
 2 than 180 days after the completion of a change to the
 3 operations manual or flood control rule curves, the Sec-
 4 retary shall submit a report to the appropriate committees
 5 of Congress regarding the components of the forecast-
 6 based reservoir operations plan incorporated into the
 7 change.

8 **Subtitle C—Reclamation Projects**
 9 **for Renewable Energy To Re-**
 10 **duce Evaporation Loss**

11 **SEC. 320. FINDINGS AND PURPOSE.**

12 (a) FINDINGS.—The Congress finds that—

13 (1) evaporative loss along Bureau of Reclama-
 14 tion reservoirs, canals, and other conveyance systems
 15 reduces the quantity and reliability of water deliv-
 16 eries;

17 (2) drought and extreme aridity from changing
 18 weather patterns will contribute to increased evapo-
 19 rative loss in the future; and

20 (3) existing Central Valley Project operations
 21 assume a conveyance loss for evaporation and seep-
 22 age south of the Delta of 150,000 acre-feet annu-
 23 ally.

24 (b) PURPOSE.—The purpose of this subtitle is to ex-
 25 pand investments in infrastructure for Bureau of Rec-

1 lamation reservoirs, canals, and other conveyance systems,
2 that will provide shade, reduce evaporative loss, and in-
3 crease water supplies in the arid western States.

4 **SEC. 321. DEFINITIONS.**

5 In this subtitle:

6 (1) COVERED LAND.—The term “covered land”
7 means land that is—

8 (A) land under the administrative jurisdic-
9 tion of the Bureau of Reclamation; and

10 (B) not excluded from the development of
11 solar or wind energy under—

12 (i) a final land use plan established
13 under the Federal Land Policy and Man-
14 agement Act of 1976 (43 U.S.C. 1701 et
15 seq.); or

16 (ii) Federal law.

17 (2) FUND.—The term “Fund” means the Fish
18 and Wildlife Restoration Fund established under
19 section 324.

20 (3) PUBLIC LAND.—The term “public land”
21 has the meaning given the term “public lands” in
22 section 103 of the Federal Land Policy and Manage-
23 ment Act of 1976 (43 U.S.C. 1702).

24 (4) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 **SEC. 322. EVALUATION AND REPORT.**

2 (a) IN GENERAL.—Not later than one year after the
3 date of the enactment of this Act, the Secretary shall com-
4 plete an evaluation and report to Congress on the potential
5 for developing rights-of-way along Bureau of Reclamation
6 canals and infrastructure, including reservoirs, for solar
7 or wind energy production through leasing of lands or
8 other means.

9 (b) REPORT.—The report to Congress shall specify—

10 (1) the location of potential rights-of-way for
11 energy production;

12 (2) estimates of water losses due to evaporation
13 that would be reduced due to shade and other bene-
14 fits from energy production;

15 (3) the total acreage available for energy pro-
16 duction;

17 (4) existing transmission infrastructure at such
18 locations;

19 (5) estimates of fair market leasing value of po-
20 tential energy sites; and

21 (6) estimates of energy development potential
22 at sites.

23 **SEC. 323. DEVELOPMENT OF SOLAR AND WIND ENERGY ON**
24 **COVERED LAND.**

25 (a) PILOT PROGRAM ON SELECTED COVERED
26 LAND.—

1 (1) ESTABLISHMENT.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary shall establish a wind and solar energy leas-
4 ing pilot program under which the Secretary con-
5 ducts lease sales of certain sites located on covered
6 land for purposes of carrying out wind and solar en-
7 ergy projects.

8 (2) SELECTION OF SITES ON COVERED LAND.—

9 (A) IN GENERAL.—Not later than 90 days
10 after the date the pilot program is established
11 under paragraph (1), the Secretary shall select
12 from covered land—

13 (i) 1 site for the development of a
14 solar energy project; and

15 (ii) 1 site for the development of a
16 wind energy project.

17 (B) SITE SELECTION.—In selecting sites
18 under subparagraph (A), the Secretary shall—

19 (i) give a preference to sites that the
20 Secretary determines—

21 (I) are likely to attract a high
22 level of wind and solar energy indus-
23 try interest;

24 (II) would likely have a positive
25 impact on water supply through re-

1 ducing water loss from evaporation by
2 providing shade and temperature re-
3 ductions, or beneficial impacts from
4 energy production and infrastructure;
5 and

6 (III) would serve as models for
7 the expansion of the pilot program to
8 other locations if the program is ex-
9 panded under subsection (c);

10 (ii) take into consideration the value
11 of the multiple resources of the covered
12 land on which such sites are located; and

13 (iii) not select any site for which a
14 right-of-way or special use permit for site
15 testing or construction has been issued
16 under title V of the Federal Land Policy
17 and Management Act of 1976 (43 U.S.C.
18 1761 et seq.).

19 (3) LEASE SALES OF PROJECT SITES.—

20 (A) IN GENERAL.—Except as provided in
21 paragraph (4)(B)(i), not later than 180 days
22 after the date on which sites are selected under
23 paragraph (2), the Secretary shall offer each
24 site for competitive leasing under such terms
25 and conditions as the Secretary requires.

1 (B) BIDDING.—Bidding on a site offered
2 for lease under this subsection shall be—

3 (i) limited to one round;

4 (ii) open only to bidders who—

5 (I) submit a plan of development
6 for such site together with the bid;
7 and

8 (II) the Secretary determines are
9 qualified under subparagraph (C)(ii);
10 and

11 (iii) conducted using a bidding system
12 selected by the Secretary, including—

13 (I) a cash bonus bids system re-
14 quiring payment of the royalty estab-
15 lished under this Act;

16 (II) a variable royalty bids sys-
17 tem based on a percentage of the
18 gross proceeds from the sale of elec-
19 tricity produced from the site offered
20 for lease, except that the royalty shall
21 not be less than the royalty required
22 under this Act, together with a fixed
23 cash bonus; or

24 (III) such other bidding system
25 as ensures a fair return to the public

1 consistent with the royalty established
2 under this Act.

3 (C) BIDDER QUALIFICATIONS.—The Sec-
4 retary shall—

5 (i) before conducting any lease sale
6 under this subsection, establish qualifica-
7 tion requirements for bidders on a site of-
8 fered for lease that ensure that such bid-
9 ders, with respect to wind or solar energy
10 projects—

11 (I) are able to expeditiously de-
12 velop such a project on the site;

13 (II) possess the financial re-
14 sources necessary to complete such a
15 project;

16 (III) possess knowledge of the
17 technology needed to complete such a
18 project;

19 (IV) meet eligibility requirements
20 that are substantially similar to the
21 eligibility requirements for leasing
22 that apply under the first section of
23 the Mineral Leasing Act (30 U.S.C.
24 181 et seq.); and

1 (V) possess such other qualifica-
2 tions as the Secretary determines are
3 necessary; and

4 (ii) using the requirements established
5 under clause (i), determine whether a per-
6 son is qualified to be a bidder on a site of-
7 fered for lease under this subsection.

8 (D) CREDIT FOR BID PREPARATION EX-
9 PENDITURES.—In the case of a site offered for
10 lease under this subsection with respect to
11 which more than one bid is submitted on the
12 date of the lease sale of such site, the Secretary
13 shall give credit to each person who submitted
14 a bid with respect to such site for expenditures
15 such person incurred in the preparation of such
16 bid.

17 (4) LEASE TERMS.—

18 (A) IN GENERAL.—The Secretary may es-
19 tablish such lease terms and conditions, includ-
20 ing the duration of the lease with respect to any
21 site offered for lease under this subsection.

22 (B) SHORT-TERM LEASES FOR DATA COL-
23 LECTION.—In carrying out this subsection, the
24 Secretary shall—

1 (i) offer on a noncompetitive basis a
2 short-term lease on not less than one site
3 selected under paragraph (2) for purposes
4 of data collection; and

5 (ii) upon the expiration of the short-
6 term lease, offer on a competitive basis a
7 long-term lease, giving credit toward the
8 bonus bid submitted with respect to the
9 long-term lease to the holder of the short-
10 term lease for any qualified expenditures
11 made by such holder to collect data or to
12 develop the site during such short-term
13 lease.

14 (5) REVENUES.—Subject to section 324, the
15 Secretary may collect bonus bids, royalties, fees, or
16 other payments (except rental payments) with re-
17 spect to sites offered for lease under this subsection.

18 (6) REPORT.—Not later than 90 days after the
19 date on which the Secretary conducts the final lease
20 sale under this subsection, the Secretary shall sub-
21 mit to the Committee on Energy and Natural Re-
22 sources of the Senate and the Committee on Natural
23 Resources of the House of Representatives a report
24 on the results of each lease sale conducted under
25 this subsection, including—

1 (A) the level of competitive interest;

2 (B) a summary of bids and revenues re-
3 ceived; and

4 (C) any other factors that may have im-
5 pacted the lease sale.

6 (7) OTHER LAWS.—

7 (A) COMPLIANCE WITH LAND MANAGE-
8 MENT AND ENVIRONMENTAL LAWS.—In offer-
9 ing sites for lease under this subsection, the
10 Secretary concerned shall comply with—

11 (i) all Federal laws applicable to lands
12 under the administrative jurisdiction of the
13 Bureau of Land Management; and

14 (ii) Federal or State environmental
15 laws or any other relevant laws.

16 (B) APPLICABILITY TO WIND AND SOLAR
17 ENERGY PROJECTS UNDER OTHER FEDERAL
18 LAWS.—Nothing in this subsection shall be con-
19 strued so as to prohibit the Secretary from
20 issuing rights-of-way or special use permits with
21 respect to wind and solar energy projects in
22 compliance with other Federal laws and regula-
23 tions in effect on the date of the enactment of
24 this Act.

1 (8) ENFORCEMENT OF FEDERAL LAND POLICY
2 MANAGEMENT.—

3 (A) IN GENERAL.—Sections 302(c) and
4 303 of the Federal Land Policy and Manage-
5 ment Act of 1976 (43 U.S.C. 1732(c), 1733)
6 shall apply to activities conducted on sites on
7 covered land offered for lease under this sub-
8 section.

9 (B) EFFECT ON ENFORCEMENT AUTHOR-
10 ITY UNDER OTHER FEDERAL LAW.—Nothing in
11 this subsection shall be construed so as to re-
12 duce or limit the enforcement authority vested
13 in the Secretary or the Attorney General on
14 covered land under any other Federal law.

15 (b) TEMPORARY EXTENSION OF PILOT PROGRAM.—
16 Until final regulations are issued under subsection (c)(4),
17 the Secretary shall continue to carry out the pilot program
18 under subsection (a) on the sites offered for lease under
19 such subsection. The Secretary may extend any lease
20 issued for such sites under subsection (a) under the same
21 terms and conditions applicable to such lease on the date
22 of the lease sale as necessary until final regulations are
23 issued under subsection (c)(4) with respect to such sites.

24 (c) EXPANSION OF PILOT PROGRAM TO ALL COV-
25 ERED LAND.—

1 (1) JOINT DETERMINATION REQUIRED.—Not
2 later than 5 years after the date of the enactment
3 of this Act, the Secretary shall determine whether to
4 expand the pilot program established under sub-
5 section (a) to apply to all covered land, including
6 sites with respect to which leases were issued under
7 subsection (a). In making such determination, the
8 Secretary shall—

9 (A) take into consideration the results of
10 the pilot program;

11 (B) consult with—

12 (i) the heads of Federal agencies and
13 relevant State agencies (including State
14 fish and wildlife agencies);

15 (ii) interested States, Indian tribes,
16 and local governments;

17 (iii) representatives of the solar and
18 wind energy industries;

19 (iv) representatives of the environ-
20 ment, conservation, and outdoor sporting
21 communities; and

22 (v) the public; and

23 (C) consider whether such expansion—

24 (i) provides an effective means of de-
25 veloping wind or solar energy; and

1 (ii) is in the public interest.

2 (2) EXPANSION AUTHORIZED.—The Secretary
3 shall expand pilot program only if the Secretary de-
4 termined to expand the pilot program under para-
5 graph (1).

6 (3) REPORT ON JOINT DETERMINATION.—Not
7 later than 60 days after making the determination
8 under paragraph (1) to expand the pilot program,
9 the Secretary shall submit to the Committee on En-
10 ergy and Natural Resources of the Senate and the
11 Committee on Natural Resources of the House of
12 Representatives a report describing the basis and
13 findings for the determination.

14 (4) REGULATIONS TO IMPLEMENT EXPAN-
15 SION.—Not later than one year after making a de-
16 termination to expand the pilot program under para-
17 graph (1), the Secretary shall issue final regulations
18 to implement this subtitle.

19 (5) APPLICABILITY OF PROVISIONS OF PILOT
20 PROGRAM TO EXPANDED PROGRAM.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), paragraphs (3), (7), and (8)
23 of subsection (a) shall apply to covered land of-
24 fered for lease under this subsection in the

1 same manner as such paragraphs apply to sites
2 offered for lease under subsection (a).

3 (B) COMPETITIVE LEASING NOT REQUIRED
4 UNDER CERTAIN CIRCUMSTANCES.—The re-
5 quirement under subsection (a)(3) that a lease
6 be sold on a competitive basis shall not apply
7 to a lease issued under this subsection if the
8 Secretary determines that—

9 (i) no competitive interest exists for
10 the covered land offered for lease;

11 (ii) the public interest would not be
12 served by the competitive issuance of a
13 lease with respect to such covered land; or

14 (iii) the lease is for a purpose de-
15 scribed in paragraph (7)(A)(ii).

16 (6) PAYMENTS.—

17 (A) IN GENERAL.—Subject to section 324,
18 the Secretary shall establish fees, bonuses, or
19 other payments (except rental payments) to en-
20 sure a fair return to the United States for any
21 lease issued under this subsection.

22 (B) BONUS BIDS.—The Secretary may
23 grant credit toward any bonus bid for a quali-
24 fied expenditure by the holder of a lease de-
25 scribed in paragraph (7)(A)(ii) in any competi-

1 tive lease sale held for a long-term lease of the
2 covered land that is the subject of the lease de-
3 scribed in such paragraph.

4 (C) READJUSTMENT.—

5 (i) IN GENERAL.—Royalties and other
6 terms and conditions of a lease issued
7 under this subsection shall be subject to
8 readjustment—

9 (I) on the date that is 15 years
10 after the date on which the lease is
11 issued; and

12 (II) every 10 years thereafter.

13 (ii) INDEXING.—Effective on the first
14 day of the first month beginning after the
15 date of enactment of this Act and each
16 year thereafter, the amount of royalties or
17 other terms and conditions subject to read-
18 justment under clause (i) shall be adjusted
19 to reflect changes for the 12-month period
20 ending on the most recent date for which
21 data are available in the Consumer Price
22 Index for All Urban Consumers published
23 by the Bureau of Labor Statistics of the
24 Department of Labor.

1 (7) LEASE DURATION, ADMINISTRATION, AND
2 READJUSTMENT.—

3 (A) DURATION.—

4 (i) IN GENERAL.—Except as provided
5 in clause (ii), a lease issued under this sub-
6 section shall be for—

7 (I) an initial term of 25 years;
8 and

9 (II) any additional period after
10 the initial 25-year term during which
11 electricity is being produced annually
12 in commercial quantities from the
13 lease.

14 (ii) DATA COLLECTION LEASES.—In
15 the case of a lease issued under this sub-
16 section for the placement and operation of
17 a meteorological or data collection facility
18 or for the development or demonstration of
19 a new wind or solar energy technology,
20 such lease shall have a term of not more
21 than 5 years.

22 (B) ADMINISTRATION.—The Secretary of
23 the Interior shall establish terms and conditions
24 for the issuance, transfer, renewal, suspension,

1 and cancellation of a lease issued under this
2 subsection.

3 (C) READJUSTMENT PROVISION RE-
4 QUIRED.—Each lease issued under this sub-
5 section shall provide for readjustment in ac-
6 cordance with subparagraph (A).

7 (8) SURFACE-DISTURBING ACTIVITIES.—The
8 Secretary shall issue regulations regarding surface-
9 disturbing activities conducted under any lease
10 issued under this subsection, including any reclama-
11 tion and other actions necessary to conserve and to
12 offset impacts to surface resources.

13 (9) SECURITY.—

14 (A) IN GENERAL.—The Secretary shall re-
15 quire that the holder of a lease issued under
16 this subsection—

17 (i) furnish a surety bond or other
18 form of security, as prescribed by the Sec-
19 retary;

20 (ii) provide for the reclamation and
21 restoration of the covered land that is the
22 subject of the lease; and

23 (iii) comply with such other require-
24 ments as the Secretary considers necessary

1 to protect the interests of the public and
2 the United States.

3 (B) PERIODIC REVIEW.—Not less fre-
4 quently than once every 5 years, the Secretary
5 shall conduct a review of the adequacy of the
6 surety bond or other form of security provided
7 by the holder of a lease issued under this sub-
8 section.

9 **SEC. 324. ROYALTIES.**

10 (a) IN GENERAL.—The Secretary shall require as a
11 term and condition of any lease issued under section 323,
12 the payment of a royalty. The Secretary shall establish
13 such royalty pursuant to a rulemaking. The royalty shall
14 be a percentage of the gross proceeds from the sale of elec-
15 tricity produced on covered land that is the subject of such
16 lease, at a rate that—

17 (1) encourages production of solar or wind en-
18 ergy;

19 (2) ensures a fair return to the public com-
20 parable to the return that would be obtained on
21 State or private land; and

22 (3) encourages the maximum energy generation
23 while disturbing the least quantity of covered land
24 and other natural resources, including water.

1 (b) CONSIDERATION.—In establishing the royalty
2 under subsection (a), the Secretary shall consider the rel-
3 ative capacity factors of wind and solar energy projects.

4 (c) EXCLUSIVE PAYMENT ON SALE OF ELEC-
5 TRICITY.—The royalty under subsection (a) shall be the
6 only rent, royalty, or similar payment to the Federal Gov-
7 ernment required with respect to the sale of electricity pro-
8 duced under a lease issued under section 323.

9 (d) ROYALTY RELIEF.—The Secretary may reduce
10 the royalty rate established under subsection (a) if the
11 holder of a lease issued under this Act shows by clear and
12 convincing evidence that—

13 (1) collection of the full royalty would unreason-
14 ably burden energy generation on covered land that
15 is the subject of the lease; and

16 (2) the royalty reduction is in the public inter-
17 est.

18 (e) ENFORCEMENT.—

19 (1) AUDITING SYSTEM.—The Secretary shall
20 establish a comprehensive inspection, collection, fis-
21 cal, and production accounting and auditing sys-
22 tem—

23 (A) to accurately determine royalties, in-
24 terest, fines, penalties, fees, deposits, and other
25 payments owed under this subtitle; and

1 (B) to collect and account for the pay-
2 ments in a timely manner.

3 (2) APPLICABILITY OF FEDERAL OIL AND ROY-
4 ALTY MANAGEMENT ACT OF 1982.—The provisions of
5 the Federal Oil and Gas Royalty Management Act
6 of 1982 (30 U.S.C. 1701 et seq.) (including the civil
7 and criminal enforcement provisions of such Act)
8 shall apply to leases issued under this subtitle with
9 respect to wind and solar energy projects in the
10 same manner as such provisions apply to oil and gas
11 leases.

12 (f) REPORT ON ROYALTIES.—Not later than 5 years
13 after the date of enactment of this Act and every 5 years
14 thereafter, the Secretary shall submit to the Committee
15 on Energy and Natural Resources of the Senate and the
16 Committee on Natural Resources of the House of Rep-
17 resentatives a report consisting of a review of the collec-
18 tions and impacts of the royalties and fees collected under
19 this subtitle, including—

20 (1) the total revenues received (by category) on
21 an annual basis as royalties from wind and solar en-
22 ergy development and production (specified by en-
23 ergy source) on covered land;

24 (2) whether the revenues received for the devel-
25 opment of wind and solar energy development are

1 comparable to the revenues received for similar de-
2 velopment on State or private land;

3 (3) any impact on the development of wind and
4 solar energy on covered land as a result of the royal-
5 ties; and

6 (4) any recommendations with respect to
7 changes in Federal law (including regulations) relat-
8 ing to the amount or method of collection (including
9 auditing, compliance, and enforcement) of the royal-
10 ties.

11 (g) REGULATIONS.—Not later than one year after the
12 date of the enactment of this Act, the Secretary shall issue
13 final regulations to carry out this section.

14 **SEC. 325. DISPOSITION OF ROYALTY REVENUE.**

15 (a) ALLOCATION OF REVENUE.—All amounts col-
16 lected by the Secretary as royalties or bonuses under sub-
17 section (a)(5) or (c)(6) of section 323 shall be distributed
18 as follows:

19 (1) 25 percent shall be paid by the Secretary of
20 the Treasury to States within the boundaries of
21 which the royalties or bonuses are derived, to be al-
22 located among such States based on the percentage
23 of covered land from which such royalties or bonuses
24 are derived in each State.

1 (2) 25 percent shall be paid by the Secretary of
2 the Treasury to the counties within the boundaries
3 of which the royalties or bonuses are derived, to be
4 allocated among such counties based on the percent-
5 age of covered land from which such royalties or bo-
6 nuses are derived in each county.

7 (3) 25 percent shall be deposited into the Fish
8 and Wildlife Restoration Fund established by sub-
9 section (b) and used in accordance with that sub-
10 section.

11 (4) For the period that begins on the date of
12 the enactment of this Act and ending on the date
13 that is 15 years after the date of the enactment of
14 this Act, 15 percent shall be paid by the Secretary
15 of the Treasury directly to the State offices of the
16 Bureau of Reclamation with jurisdiction over the
17 areas of which the royalties or bonuses are derived
18 for purposes of reducing the number of renewable
19 energy permits that have not been processed before
20 the date of the enactment of this Act, to be allocated
21 among such offices based on the percentage of cov-
22 ered land from which the royalties or bonuses are
23 derived in each State.

1 (5) The remainder shall be deposited into the
2 general fund of the Treasury for purposes of reduc-
3 ing the annual Federal budget deficit.

4 (b) FISH AND WILDLIFE RESTORATION FUND.—

5 (1) ESTABLISHMENT.—There is established in
6 the Treasury a Fish and Wildlife Restoration Fund
7 to be administered by the Secretary of the Interior
8 for use in regions impacted by the development of
9 hydropower by Federal agencies, including the Bu-
10 reau of Reclamation, and the development of wind or
11 solar energy on Bureau of Reclamation land.

12 (2) USE OF FUNDS.—The Secretary shall use
13 amounts in the Fund to take actions and to make
14 payments to State agencies, Federal agencies, or
15 other interested persons in such regions for—

16 (A) protecting and restoring important fish
17 and wildlife habitat and native populations in
18 such regions, including corridors, water re-
19 sources, and other sensitive land; and

20 (B) improving fish species habitat or na-
21 tive population within the boundaries and down-
22 stream of a Bureau of Reclamation project.

23 (3) AVAILABILITY OF AMOUNTS.—Amounts in
24 the Fund shall be available for expenditure, in ac-

1 cordance with this subsection, without further appro-
2 priation and without fiscal year limitation.

3 (4) INVESTMENT OF FUND.—

4 (A) IN GENERAL.—Any amounts deposited
5 in the Fund shall earn interest in an amount
6 determined by the Secretary of the Treasury on
7 the basis of the current average market yield on
8 outstanding marketable obligations of the
9 United States of comparable maturities.

10 (B) DEPOSIT.—Any interest earned under
11 subparagraph (A) shall be deposited into the
12 Fund.

13 (5) MITIGATION REQUIREMENTS.—The expend-
14 iture of funds under this subsection shall be sepa-
15 rate and distinct from any mitigation requirements
16 imposed pursuant to any law, regulation, or term or
17 condition of any lease, right-of-way, or other author-
18 ization.

19 (c) ALLOCATION FOR PERMITTING AFTER EXPIRA-
20 TION OF 15-YEAR PERIOD.—

21 (1) CERTIFICATION BY SECRETARY.—At the
22 end of the period described in subsection (a)(4), the
23 Secretary shall certify whether the State offices re-
24 ferred to in such subsection have adequately reduced

1 the renewable energy permitting backlog referred to
2 in such subsection.

3 (2) ALLOCATION AFTER CERTIFICATION.—If
4 the Secretary certifies under paragraph (1) that—

5 (A) the State offices referred to in such
6 paragraph have not adequately reduced the
7 backlog referred to in such paragraph—

8 (i) the period described in subsection
9 (a)(4) shall be extended by an additional
10 15-year period; and

11 (ii) payments shall continue to be
12 made during that period as described in
13 such subsection; or

14 (B) the State offices referred to in such
15 paragraph have adequately reduced such back-
16 log—

17 (i) two-thirds of the amount otherwise
18 required to be paid under subsection (a)(4)
19 shall be added to the amount deposited in
20 the Fund established under subsection (b);
21 and

22 (ii) one-third of such amount shall be
23 deposited into the general fund of the
24 Treasury for purposes of reducing the an-
25 nual Federal budget deficit.

1 (d) PAYMENTS TO STATES AND COUNTIES.—

2 (1) IN GENERAL.—Amounts paid to States and
3 counties under subsection (a) shall be used in a
4 manner that is consistent with section 35 of the
5 Mineral Leasing Act (30 U.S.C. 191).

6 (2) IMPACTS.—Not less than 35 percent of the
7 amount paid to a State each fiscal year shall be used
8 for the purposes described in subsection (b)(2).

9 **Subtitle D—Improved Reclamation**
10 **Crop Data**

11 **SEC. 331. DEFINITIONS.**

12 For the purposes of this subtitle:

13 (1) AGRICULTURAL WATER CONTRACT.—The
14 term “agricultural water contract” means any con-
15 tract or arrangement, including water service con-
16 tracts, repayment contracts, water rights settlement
17 contracts, exchange contracts, or other form of
18 agreement, through which agricultural users receive
19 water and deliveries through a facility owned, oper-
20 ated, or constructed in whole or in part by the Bu-
21 reau of Reclamation, including contracts under the
22 Reclamation Act of 1902 (ch.1093; 32 Stat. 388) as
23 amended and supplemented.

24 (2) DROUGHT EMERGENCY.—The term
25 “drought emergency” means a period when a state

1 of drought emergency declared by the Governor of
2 the State is in effect.

3 (3) FEDERALLY DEVELOPED WATER SUP-
4 PLIES.—The term “federally developed water sup-
5 plies” means water supplies derived from a project
6 developed by the Secretary pursuant to Federal law.

7 (4) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior, acting through the
9 Commissioner of the Bureau of Reclamation.

10 (5) WATER-INTENSE PERMANENT CROP.—The
11 term “water-intense permanent crop” means any
12 crop considered by the Secretary, after consultation
13 with the Secretary of Agriculture, to be
14 unsustainable for an area given its expected level of
15 rainfall in the absence of the federally developed
16 water supply.

17 **SEC. 332. DETERMINATION OF PLANTING OF WATER-IN-**
18 **TENSE PERMANENT CROPS.**

19 The Secretary shall survey agricultural water con-
20 tracts related to federally developed water supplies to de-
21 termine if water-intense permanent crops have been plant-
22 ed by or on behalf of the customers or beneficiaries of any
23 agricultural water contract during a drought emergency.
24 The survey shall include the examination of all such con-
25 tracts in effect at any time during the period from the

1 date of the enactment of this Act and until the date that
2 is 10 years before the date of the enactment of this Act.

3 **SEC. 333. REPORT RELATED TO WATER-INTENSE PERMA-**
4 **NENT CROPS.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the Secretary shall submit a report based
7 on the survey conducted pursuant to section 331 and other
8 information available to the Secretary to Congress that in-
9 cludes—

10 (1) the number and location of acres put into
11 production of water-intense permanent crops during
12 a drought emergency;

13 (2) the types of water-intense permanent crops
14 put into production on each acre; and

15 (3) the impact that putting the water-intense
16 permanent crops into production had and is pro-
17 jected to have on the water demands for the agricul-
18 tural water contracts and federally developed water
19 supply related to those crops.

1 **Subtitle E—Improved Oversight of**
2 **State Injection Wells**

3 **SEC. 341. AMENDMENT TO THE SAFE DRINKING WATER**
4 **ACT.**

5 Section 1422 of the Safe Drinking Water Act (42
6 U.S.C. 300h–1) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(f) For the purposes of subsection (c), if the Admin-
9 istrator finds that a State has, at any time, improperly
10 issued permits under the State’s underground injection
11 control program and the State fails to address such defi-
12 ciencies and take sufficient remedial action, as determined
13 by the Administrator, by the date that is 90 days after
14 the date on which the Administrator notifies the State of
15 such finding, the State shall be considered to no longer
16 meet the requirements of clause (i) or (ii) of subsection
17 (b)(1)(A) until such time as the State has addressed the
18 deficiencies and taken sufficient remedial action, as deter-
19 mined by the Administrator.”.

20 **Subtitle F—Combating Water Theft**
21 **for Illegal Marijuana Cultivation**

22 **SEC. 351. POLICY DIRECTIVE ON ILLEGAL WATER DIVER-**
23 **SION FOR MARIJUANA CULTIVATION.**

24 Not later than 90 days after the date of enactment
25 of this Act, the Director of National Drug Control Policy,

1 in collaboration with the Secretary of the Interior and the
2 Administrator of the Environmental Protection Agency,
3 shall determine the amount of water diverted for mari-
4 juana cultivation in each of the high intensity drug traf-
5 ficking areas (as designated under section 707 of the Of-
6 fice of National Drug Control Policy Reauthorization Act
7 of 1998 (21 U.S.C. 1706)) within the State of California
8 and other States with declared droughts.

9 **SEC. 352. ENVIRONMENTAL REPORTING REQUIREMENTS**
10 **FOR DOMESTIC CANNABIS ERADICATION**
11 **PROGRAM.**

12 Not later than 1 year after the date of enactment
13 of this Act, and annually thereafter, the Attorney General
14 shall require, as a condition of the receipt of any funds
15 under the Domestic Cannabis Eradication/Suppression
16 program of the Drug Enforcement Administration, or any
17 successor program thereto, a report from any participant
18 in such program containing information on the environ-
19 mental consequences of actions taken pursuant to pro-
20 gram participation. The Attorney General, in making any
21 determination to provide funding under the program, shall
22 take into account the information so reported.

23 **SEC. 353. TRESPASS MARIJUANA LOCATION REGISTRY.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Attorney General shall establish and main-

tain a registry, in which reports received by the Attorney General of incidents of cultivation of marijuana on Federal or State property or while intentionally trespassing on the property of another will be recorded and, to the extent feasible, made available to the public.

SEC. 354. FUNDING FOR REMEDIATION OF TRESPASS MARIJUANA SITES.

(a) FROM FORFEITURE FUND.—Section 524(c)(1)(E)(ii) of title 28, United States Code, is amended—

(1) by striking “and” at the end of subclause (I);

(2) by inserting “and” after the semicolon at the end of subclause (II); and

(3) by inserting after subclause (II) the following:

“(III) costs incurred by or on behalf of any State, local, or tribal government in connection with the remediation of any area formerly used for the production or cultivation of marijuana, including the removal of any hazardous substance or pollutant or contaminant, in which such State, local, or tribal government has assisted in a federal prosecution related to marijuana;”.

1 (b) FROM RESTITUTION IN CRIMINAL CASES.—Sec-
2 tion 413(q) of the Controlled Substances Act (21 U.S.C.
3 853(q)) is amended—

4 (1) by striking “or methamphetamine” the first
5 place it appears and inserting “, methamphetamine,
6 or marijuana”; and

7 (2) by inserting after “or methamphetamine”
8 the second place it appears the following: “, or cul-
9 tivation of marijuana,”.

10 **SEC. 355. VOLUNTARY GUIDELINES.**

11 (a) ESTABLISHMENT OF VOLUNTARY GUIDELINES.—
12 Not later than 6 months after the date of enactment of
13 this Act, the Secretary of Agriculture (in this section re-
14 ferred to as the “Secretary”), in consultation with other
15 appropriate Federal agencies, including the Environ-
16 mental Protection Agency, shall establish voluntary guide-
17 lines, based on the best currently available scientific
18 knowledge—

19 (1) for the remediation of former indoor and
20 outdoor marijuana cultivation and processing sites,
21 including guidelines regarding preliminary site as-
22 sessment and the remediation of residual contami-
23 nants and ecosystems; and

24 (2) for State, local, and tribal governments to
25 use in developing and implementing laws, regula-

1 tions, guidelines, and other policies that apply the
2 best available research and technology to the remedi-
3 ation of former indoor and outdoor marijuana cul-
4 tivation and processing sites.

5 (b) CONSIDERATIONS.—In establishing the voluntary
6 guidelines under subsection (a), the Secretary shall con-
7 sider, at a minimum—

8 (1) relevant standards, guidelines, and require-
9 ments found in Federal, State, tribal, and local laws
10 and regulations;

11 (2) the various types and locations of former
12 marijuana cultivation or processing sites, including
13 both indoor and outdoor sites; and

14 (3) the estimated costs of carrying out any such
15 guidelines.

16 (c) CONSULTATION.—The Secretary shall work with
17 State, local, and tribal governments and other non-Federal
18 agencies and organizations the Secretary determines rel-
19 evant to promote and encourage the adoption of the vol-
20 untary guidelines.

21 (d) REVISIONS TO THE GUIDELINES.—The Secretary
22 shall periodically review and, as the Secretary, in consulta-
23 tion with State, local, and tribal governments and other
24 interested parties, determines necessary and appropriate,
25 revise the voluntary guidelines to incorporate findings of

1 the research conducted pursuant to section 356 and other
2 new knowledge.

3 **SEC. 356. RESEARCH PROGRAM.**

4 The Secretary of Agriculture, in consultation with
5 other appropriate Federal agencies, including the Environ-
6 mental Protection Agency, shall establish a program of re-
7 search to support the development and revision of the vol-
8 untary guidelines established under section 355. Such pro-
9 gram shall—

10 (1) identify marijuana cultivation or processing-
11 related chemicals of concern;

12 (2) assess the types and levels of exposure to
13 chemicals of concern identified under paragraph (1)
14 that may present significant adverse biological ef-
15 fects, and identify actions and additional research
16 necessary to remediate such biological effects;

17 (3) assess the impacts of marijuana cultivation
18 and processing on waterways and bodies of water,
19 and identify actions and additional research nec-
20 essary to remediate such impacts;

21 (4) evaluate the performance of current remedi-
22 ation techniques for marijuana cultivation and proc-
23 essing sites;

24 (5) identify areas where additional research is
25 necessary, including research relating to—

1 (A) the impacts of indoor and outdoor
 2 marijuana cultivation and processing, including
 3 biological and hydrological effects and impacts
 4 to soil and landscape, such as the potential for
 5 erosion; and

6 (B) the remediation of former indoor or
 7 outdoor marijuana cultivation or processing
 8 sites;

9 (6) support other research priorities identified
 10 by the Secretary, in consultation with State, local,
 11 and tribal governments and other interested parties;
 12 and

13 (7) include collaboration with colleges and uni-
 14 versities currently engaged in research on any mat-
 15 ter described in this section or additional research
 16 priorities determined appropriate by the Secretary.

17 **Subtitle G—SECURE Water** 18 **Amendments**

19 **SEC. 361. AUTHORIZED ACTIVITIES; ELIGIBILITY; AUTHOR-** 20 **IZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—Section 9504 of the Omnibus
 22 Public Land Management Act of 2009 (42 U.S.C. 10364)
 23 is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (1)(H)—

1 (i) in clause (i), by striking “or” at
2 the end;

3 (ii) in clause (ii), by striking the pe-
4 riod and inserting “; or”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(iii) to plan for or address the im-
8 pacts of drought.”; and

9 (B) in paragraph (2)(A)—

10 (i) by striking “; and” and inserting
11 “; or”;

12 (ii) by striking “(A) be located within
13 the States” and inserting the following:

14 “(A) be located in—

15 “(i) the States”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(ii) the State of Hawaii; and”; and

19 (2) in subsection (e), by striking “There is”
20 and all that follows through “\$200,000,000” and in-
21 serting “There are authorized to be appropriated
22 such sums as are necessary to carry out this section
23 for each of fiscal years 2015 through 2023”.

1 **SEC. 362. AUTHORIZATION OF APPROPRIATIONS FOR NA-**
 2 **TIONAL WATER AVAILABILITY AND USE AS-**
 3 **SESSMENT PROGRAM.**

4 Section 9508(e)(2) of the Omnibus Public Land Man-
 5 agement Act of 2009 (42 U.S.C. 10368(e)(2)) is amended
 6 by striking “\$12,500,000 for the period of fiscal years
 7 2009 through 2013” and inserting “such sums as are nec-
 8 essary for the period of fiscal years 2014 through 2023”.

9 **Subtitle H—Refundable Tax Credit**
 10 **for Water-Harvesting Systems**

11 **SEC. 371. REFUNDABLE TAX CREDIT FOR WATER-HAR-**
 12 **VESTING SYSTEMS.**

13 (a) IN GENERAL.—Subpart C of part IV of sub-
 14 chapter A of subtitle A of the Internal Revenue Code of
 15 1986 is amended by inserting after section 36B the fol-
 16 lowing new section:

17 **“SEC. 36C. WATER-HARVESTING SYSTEMS.**

18 “(a) IN GENERAL.—In the case of an individual,
 19 there shall be allowed as a credit against the tax imposed
 20 by this subtitle for any taxable year an amount equal to
 21 the aggregate amount paid or incurred for the purchase
 22 and installation of a qualified water-harvesting system.

23 “(b) LIMITATION.—The amount allowed as a credit
 24 under subsection (a) shall not exceed the excess (if any)
 25 of—

26 “(1) \$2,000, over

1 “(2) the amount allowed as a credit under sub-
2 section (a) for all prior taxable years.

3 “(c) QUALIFIED WATER-HARVESTING SYSTEM DE-
4 FINED.—For purposes of this section, the term ‘qualified
5 water-harvesting system’ means earthworks or passive
6 rain gardens, gutters, cisterns, tanks, and other systems
7 that meet the guidelines developed under subsection (d)
8 and that are installed in the United States with respect
9 to the principal place of abode of the taxpayer.

10 “(d) GUIDELINES.—The Secretary, in consultation
11 with the Administrator of the Environmental Protection
12 Agency, shall—

13 “(1) develop guidelines for the identification
14 and approval of qualified water-harvesting systems,
15 and

16 “(2) shall review and, if appropriate, update
17 such guidelines at least once every 6 years.

18 Such guidelines shall include the establishment and main-
19 tenance of performance criteria so that products, land-
20 scapes, and processes meet industry standards for water-
21 efficiency and water-capture. In developing and updating
22 guidelines under this subsection, the Secretary shall solicit
23 public comment.

1 “(e) REGULATIONS.—The Secretary shall prescribe
 2 such regulations or other guidance as may be necessary
 3 or appropriate to carry out subsection (a).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 1324(b)(2) of title 31, United
 6 States Code, is amended by inserting “36C,” after
 7 “36B,”.

8 (2) The table of sections for subpart C of part
 9 IV of subchapter A of chapter 1 of the Internal Rev-
 10 enue Code of 1986 is amended by inserting after the
 11 item relating to section 36B the following new item:
 “Sec. 36C. Water-harvesting systems.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 the date of the enactment of this Act.

15 **Subtitle I—Funding for Construc-**
 16 **tion for Additional Project Ben-**
 17 **efits**

18 **SEC. 381. FUNDING FOR CONSTRUCTION FOR ADDITIONAL**
 19 **PROJECT BENEFITS.**

20 The Reclamation Safety of Dams Act of 1978 (43
 21 U.S.C. 509 et seq.) is amended—

22 (1) in section 3, by striking “Construction” and
 23 inserting “Except as provided in section 5, construc-
 24 tion”; and

25 (2) by inserting after section 5A the following:

1 “SEC. 5B. (a) Notwithstanding section 3, if the Sec-
2 retary determines that additional project benefits, such as
3 additional conservation storage capacity, are feasible and
4 not inconsistent with the purposes of this Act, the Sec-
5 retary is authorized to develop additional project benefits
6 through the construction of new or supplementary works
7 on a project in conjunction with the Secretary’s activities
8 under section 2 and subject to the conditions described
9 in the feasibility study, if—

10 “(1) the Secretary determines that developing
11 additional project benefits through the construction
12 of new or supplementary works on a project is likely
13 to promote more efficient management of water and
14 water-related facilities;

15 “(2) the feasibility study pertaining to addi-
16 tional project benefits has been authorized pursuant
17 to section 8 of the Federal Water Project Recreation
18 Act of 1965 (16 U.S.C. 460*l*–18); and

19 “(3) the Secretary determines, in advance of
20 funds being committed or expanded, that—

21 “(A) the project sponsor shall provide
22 funding for not less than 75 percent of project
23 costs;

24 “(B) the project shall generate environ-
25 mental enhancement, including increase water

1 deliveries for environmental flows or refuge
2 water supplies, that justify a non-reimbursable
3 Federal cost share of not more than 25 percent
4 and that a share of the increased water supply
5 made possible from expanded storage capacity
6 equal to the Federal cost share shall be made
7 available for such environmental purposes;

8 “(C) all of the estimated costs properly al-
9 locable to irrigation, power, and municipal
10 water supply or other miscellaneous purposes
11 are included in the non-Federal cost share;

12 “(D) any State cost identified shall be pro-
13 cured or committed by the State; and

14 “(E) the project sponsor shall complete a
15 feasibility study consistent with Bureau of Rec-
16 lamation requirements and report the findings
17 of that study to the Secretary.

18 “(b) If the project sponsor has a completed feasibility
19 study and the Secretary makes a finding of feasibility, the
20 Secretary is authorized to expend available appropriated
21 funds for construction of the project if—

22 “(1) in the determination of the Secretary an
23 analysis commensurate with risk has been performed
24 that demonstrates that—

1 “(A) financial feasibility or capability for
 2 reimbursable project purposes and any remain-
 3 ing non-reimbursable project purposes not being
 4 funded by the maximum 25 percent Federal
 5 cost-share; and

6 “(B) the costs of non-reimbursable project
 7 purposes to be borne by the United States are
 8 justified by the environmental enhancement, in-
 9 cluding increase water deliveries for environ-
 10 mental flows or refuge water supplies, and that
 11 the Federal share of the project costs shall not
 12 exceed 25 percent; and

13 “(2) any environmental document prepared by
 14 the project sponsor is supplemented to address any
 15 changes to the project that the Secretary determines
 16 are necessary.”.

17 **TITLE IV—PLANNING FOR THE** 18 **FUTURE**

19 **Subtitle A—X-Prize for** 20 **Desalination Breakthroughs**

21 **SEC. 401. SHORT TITLE.**

22 This subtitle may be cited as the “Water Innovation
 23 and Prize Competition Act of 2015”.

1 **SEC. 402. WATER TECHNOLOGY AWARD PROGRAM.**

2 (a) PROGRAM ESTABLISHED.—The Secretary of En-
3 ergy shall, in consultation with the Administrator of the
4 Environmental Protection Agency and the Secretary of the
5 Interior, working through the Bureau of Reclamation, es-
6 tablish a program to award prizes to eligible persons de-
7 scribed in subsection (b) for achievement in 1 or more of
8 the following applications of water technology:

9 (1) Demonstration of desalination of brackish
10 or sea water with significantly less energy than com-
11 mercially available reverse osmosis technology.

12 (2) Demonstration of portable or modular de-
13 salination units that can process 1 to 5,000,000 gal-
14 lons per day that could be deployed for temporary
15 emergency uses in coastal communities or commu-
16 nities with brackish ground water supplies.

17 (3) Demonstration of significant advantages
18 over commercially available reverse osmosis tech-
19 nology as determined by the board established under
20 subsection (c).

21 (b) ELIGIBLE PERSON.—An eligible person described
22 in this subsection is—

23 (1) an individual who is—

24 (A) a citizen or legal resident of the
25 United States; or

1 (B) a member of a group that includes
2 citizens or legal residents of the United States;
3 or

4 (2) an entity that is incorporated and maintains
5 its primary place of business in the United States.

6 (c) ESTABLISHMENT OF BOARD.—

7 (1) IN GENERAL.—The Secretary of Energy
8 shall establish a board to administer the program es-
9 tablished under subsection (a).

10 (2) MEMBERSHIP.—The board shall be com-
11 posed of not less than 15 and not more than 21
12 members appointed by the President, of whom—

13 (A) not less than 1 shall—

14 (i) be a representative of the interests
15 of academic, business, and nonprofit orga-
16 nizations; and

17 (ii) have expertise in—

18 (I) the field of water technology,
19 including desalination; or

20 (II) administering award com-
21 petitions; and

22 (B) not less than 1 shall be from each of—

23 (i) the Department of Energy;

24 (ii) the Environmental Protection
25 Agency;

1 (iii) the Bureau of Reclamation of the
2 Department of the Interior; and

3 (iv) the National Science Foundation.

4 (d) AWARDS.—Subject to the availability of appro-
5 priations, the board established under subsection (c) may
6 make awards under the program established under sub-
7 section (a) as follows:

8 (1) FINANCIAL PRIZE.—The board may hold a
9 financial award competition and award a financial
10 award in an amount determined before the com-
11 mencement of the competition to the first competitor
12 to meet such criteria as the board shall establish.

13 (2) RECOGNITION PRIZE.—

14 (A) IN GENERAL.—The board may recog-
15 nize an eligible person for superlative achieve-
16 ment in 1 or more applications described in
17 subsection (a).

18 (B) NO FINANCIAL REMUNERATION.—An
19 award under this paragraph shall not include
20 any financial remuneration.

21 (C) NATIONAL TECHNOLOGY AND INNOVA-
22 TION MEDAL RECOMMENDATIONS.—For each
23 eligible person recognized under this paragraph,
24 the board shall recommend to the Secretary of
25 Commerce that the Secretary recommend to the

1 President under section 16(b) of the Stevenson-
2 Wydler Technology Innovation Act of 1980 (15
3 U.S.C. 3711) that the President award the Na-
4 tional Technology and Innovation Medal estab-
5 lished under section 16(a) of such Act to such
6 eligible person.

7 (e) ADMINISTRATION.—

8 (1) CONTRACTING.—The board established
9 under subsection (c) may contract with a private or-
10 ganization to administer a financial award competi-
11 tion described in subsection (d)(1).

12 (2) SOLICITATION OF FUNDS.—A member of
13 the board or any administering organization with
14 which the board has a contract under paragraph (1)
15 may solicit gifts from private and public entities to
16 be used for a financial award under subsection
17 (d)(1).

18 (3) LIMITATION ON PARTICIPATION OF DO-
19 NORS.—The board may allow a donor who is a pri-
20 vate person described in paragraph (2) to participate
21 in the determination of criteria for an award under
22 subsection (d), but such donor may not solely deter-
23 mine the criteria for such award.

24 (4) NO ADVANTAGE FOR DONATION.—A donor
25 who is a private person described in paragraph (3)

1 shall not be entitled to any special consideration or
2 advantage with respect to participation in a financial
3 award competition under subsection (d)(1).

4 (f) INTELLECTUAL PROPERTY.—The Federal Gov-
5 ernment may not acquire an intellectual property right in
6 any product or idea by virtue of the submission of such
7 product or idea in any competition under subsection
8 (d)(1).

9 (g) LIABILITY.—The board established under sub-
10 section (c) may require a competitor in a financial award
11 competition under subsection (d)(1) to waive liability
12 against the Federal Government for injuries and damages
13 that result from participation in such competition.

14 (h) ANNUAL REPORT.—Each year, the board estab-
15 lished under subsection (c) shall submit to Congress a re-
16 port on the program established under subsection (a).

17 (i) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) IN GENERAL.—There are authorized to be
19 appropriated sums for the program established
20 under subsection (a) as follows:

21 (A) For administration of prize competi-
22 tions under subsection (d), \$750,000 for each
23 fiscal year.

24 (B) For the awarding of a financial prize
25 award under subsection (d)(1), in addition to

1 any amounts received under subsection (e)(2),
2 \$2,000,000 for each fiscal year.

3 (2) AVAILABILITY.—Amounts appropriated pur-
4 suant to the authorization of appropriations under
5 paragraph (1) shall remain available until expended.

6 **Subtitle B—Drought Planning As-**
7 **sistance Through NRCS and**
8 **Reclamation**

9 **SEC. 411. DROUGHT PLANNING ASSISTANCE THROUGH**
10 **NRCS AND RECLAMATION.**

11 (a) IN GENERAL.—The Secretary of Agriculture, act-
12 ing through the Natural Resources Conservation Service,
13 in collaboration with the Secretary of the Interior, acting
14 through the Bureau of Reclamation, shall, upon request,
15 provide assistance to water or power delivery authorities,
16 including water districts and irrigation districts, that are
17 authorized under subtitle F of title IX of the Omnibus
18 Public Land Management Act of 2009 (42 U.S.C. 10362
19 et seq.) to receive financial assistance from the Bureau
20 of Reclamation, for the purposes of increasing water use
21 efficiency and providing on-farm assistance to address
22 water quantity and water quality conservation practices.

23 (b) TYPES OF ASSISTANCE.—Assistance under sub-
24 section (a) shall include—

25 (1) hydrological forecasting;

1 (2) assessment of water supply sources under
2 different water year classification types;

3 (3) identification of alternative water supply
4 sources;

5 (4) guidance on potential water transfer part-
6 ners;

7 (5) technical assistance regarding Federal and
8 State permits and contracts under the Act of Feb-
9 ruary 21, 1911 (36 Stat. 925, chapter 141) (com-
10 monly known as the “Warren Act”);

11 (6) installation of districtwide or on-farm water
12 efficiency and conservation technologies, including
13 behavioral water efficiency, system modernizations
14 (including leak repair and supervisory control and
15 data acquisition systems), and other technologies
16 that have been proven to provide improvements in
17 water use efficiency through verification by a third
18 party;

19 (7) technical assistance regarding emergency
20 provision of water supplies for critical health and
21 safety purposes; and

22 (8) activities carried out in conjunction with the
23 National Oceanic and Atmospheric Administration,
24 the National Integrated Drought Information Sys-
25 tem, and the State partners of the National Inte-

1 grated Drought Information System under the Na-
2 tional Integrated Drought Information System Act
3 of 2006 (15 U.S.C. 313d)—

4 (A) to collect and integrate key indicators
5 of drought severity and impacts; and

6 (B) to produce and communicate timely
7 monitoring and forecast information to local
8 and regional communities.

9 **Subtitle C—Drought Preparedness** 10 **for Fisheries**

11 **SEC. 421. DROUGHT PREPAREDNESS FOR FISHERIES.**

12 (a) SALMON DROUGHT PLAN.—Not later than Janu-
13 ary 1, 2016, the Director of the United States Fish and
14 Wildlife Service shall, in consultation with the National
15 Marine Fisheries Service, the Bureau of Reclamation, the
16 Army Corps of Engineers, and the California Department
17 of Fish and Wildlife, prepare a California salmon drought
18 plan. The plan shall investigate options to protect salmon
19 populations originating in the State of California, con-
20 tribute to the recovery of populations listed under the En-
21 dangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
22 and contribute to the goals of the Central Valley Project
23 Improvement Act (Public Law 102–575). The plan shall
24 focus on actions that can aid salmon populations during
25 the driest years. Strategies investigated shall include—

1 (1) relocating the release location and timing of
2 hatchery fish to avoid predation and temperature
3 impacts;

4 (2) barging of hatchery release fish to improve
5 survival and reduce straying;

6 (3) coordinating with water users, the Bureau
7 of Reclamation, and the California Department of
8 Water Resources regarding voluntary water trans-
9 fers, to determine if water released upstream to
10 meet the needs of downstream or South-of-Delta
11 water users can be managed in a way that provides
12 additional benefits for salmon;

13 (4) hatchery management modifications, such
14 as expanding hatchery production of listed fish dur-
15 ing the driest years, if appropriate;

16 (5) increasing rescue operations of upstream
17 migrating fish; and

18 (6) improving temperature modeling and related
19 forecasted information to predict water management
20 impacts to salmon and salmon habitat with a higher
21 degree of accuracy than current models.

22 (b) COORDINATION WITH FISHERIES AGENCIES.—In
23 preparing the plan under subsection (a), the Director shall
24 coordinate with the National Marine Fisheries Service and
25 relevant State agencies.

1 (c) APPROPRIATION.—There is hereby appropriated
2 for fiscal year 2014, out of any funds in the Treasury not
3 otherwise appropriated, a total amount of \$3,000,000, to
4 remain available until the end of the period during which
5 the State’s emergency drought designation is in effect, for
6 the United States Fish and Wildlife Service for urgent
7 fish, stream, and hatchery activities related to extreme
8 drought conditions, including work with the National Ma-
9 rine Fisheries Service, the Bureau of Reclamation, the
10 Army Corps of Engineers, the California Department of
11 Fish and Wildlife, or a qualified tribal government.

12 (d) QUALIFIED TRIBAL GOVERNMENT DEFINI-
13 TION.—For the purposes of this section, the term “quali-
14 fied tribal government” means any government of an In-
15 dian tribe that the Secretary of the Interior determines—

16 (1) is involved in salmon management and re-
17 covery activities including under the Endangered
18 Species Act of 1973 (16 U.S.C. 1531 et seq.); and

19 (2) has the management and organizational ca-
20 pability to maximize the benefits of assistance pro-
21 vided under this section.

1 **Subtitle D—National Emergency**
2 **Planning Response**

3 **SEC. 431. NATIONAL EMERGENCY PLANNING RESPONSE.**

4 (a) CATASTROPHIC DROUGHT PLAN.—Not later than
5 120 days after the date of enactment of this Act, the
6 President shall update the National Response Plan and
7 the National Disaster Recovery Framework to include a
8 plan for catastrophic drought that calls on the capabilities
9 of all applicable Federal agencies and departments, includ-
10 ing the pre-positioning of Federal resources to provide
11 emergency clean water supplies.

12 (b) DEFINITIONS.—For the purposes of this sec-
13 tion—

14 (1) the term “National Response Plan” means
15 the National Response Plan or any successor plan
16 prepared under section 504(a)(6) of the Homeland
17 Security Act of 2002 (6 U.S.C. 314(a)(6)); and

18 (2) the term “National Disaster Recovery
19 Framework” means the National Disaster Recovery
20 Framework or any successor document prepared
21 under section 682 of the Post-Katrina Emergency
22 Management Reform Act of 2006 (6 U.S.C. 771).

1 **Subtitle E—Military Preparedness**
2 **for Desalination**

3 **SEC. 441. REPORT ON DESALINIZATION TECHNOLOGY.**

4 Not later than 90 days after the date of enactment
5 of this Act, the Secretary of the Navy shall submit to Con-
6 gress a report on desalinization technology's application
7 for defense and national security purposes to provide
8 drought relief to areas impacted by sharp declines in water
9 supply.

○

ITEM #15

LEGISLATIVE UPDATE

WILL BE GIVEN AS AN
ORAL REPORT

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 23, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Sherri A. Hong, Manager of Customer & Community Services *S. Hong*

SUBJECT: Water Conservation: Follow-Up to Artificial Turf Discussion at the June 23, 2015 Board Meeting

BACKGROUND

This memorandum responds to the Board of Directors' request for additional information during the staff presentation on a potential artificial turf pilot study at the June 23, 2015 Board Meeting.

SUMMARY

During the June 23, 2015 Board meeting, staff sought Board direction on a potential pilot artificial turf incentive that could be included under the District's Landscape Conversion Rebate Program. Staff's presentation, along with public comment and Board discussion, covered a variety of topics including the quality and longevity of newer products, associated water savings, installation and maintenance costs, and environmental impacts. The questions from the Board during the meeting are addressed in this memo. Additional information will be provided in a presentation at the July 28, 2015 Board Meeting. At the conclusion of the presentation, staff will seek final direction from the Board on this subject.

Question 1: How does the District address sustainability on rebate and conservation options?

In designing rebate offers and making water conservation recommendations, staff considers an integrated approach toward the conservation of resources (i.e. water, energy, wastewater, etc.) and potential direct and indirect environmental impacts. For example, some water-saving, hot-water-recirculation systems increase energy use and therefore are not recommended. The District's *Plants and Landscapes for Summer Dry Climates* book describes an approach to landscaping that is attuned to local climate, microclimate, topography and soils, and is responsive to the reality of limited resources. Similar to the Bay-Friendly Landscape Principles, to which the District is signatory, important considerations are incorporated into our conservation messaging related to landscape design and maintenance, including solid waste reduction, water and energy conservation, water and air quality, and wildlife habitat. Staff continues to evaluate new water conservation technology, anticipated water savings, measure performance, and market and consumer adoption.

Question 2: What amount of water is used in the manufacture of artificial turf versus the amount of water used to manufacture a drip irrigation system for a typical yard?

Sufficient data and information is not readily available to provide a meaningful response regarding the water use footprint of manufacturing artificial turf and drip irrigation equipment. This is a complex research question that would require a considerable amount of time to ascertain.

Question 3: Provide additional specifics regarding the heat island impact from artificial turf, such as impacts to tree root structures and impacts to water quality from runoff of current artificial turf products.

Heat Island

One of the more significant and negative impacts associated with artificial turf is the increase in surface temperatures compared to natural landscapes. Numerous field studies have documented that the surface temperature on artificial turf is dramatically increased compared to surrounding land uses, including grass, concrete, and asphalt. Several research studies and website articles for and against artificial turf all recognized and acknowledged the heat island effect.

One field study of direct temperature measurements conducted in New York found that synthetic turf fields can get up to 60°F hotter than grass, with surface temperatures reaching 160°F on summer days. Another study comparing temperatures on artificial turf temperatures with air temperature found that artificial turf ranged from 58 to 75 degrees hotter than measured air temperature. While irrigation provided significant cooling for the synthetic turf (lowering the temperature from 174°F to 85°F) the temperature quickly rose again to 120°F after only 5 minutes; after 20 minutes it rose to 164°F. It should be noted that the focus of research has been on sports fields rather than residential applications.

Water Quality

Leaching of substances as the result of surface water runoff from precipitation has, by some researchers, been predicted to be the greatest risk for the environment from artificial turf. Studies show there is a risk of local effects for aquatic and sediment dwelling organisms in impacted water courses. Recycled rubber and associated leachate are found to contain a variety of metals (including lead, cadmium, copper, mercury, and zinc), as well as organic pollutants such as PAHs, phthalates, 4-t-octylphenol and iso-nonyphenol. The leaching of zinc has been determined to be a major environmental concern.

The Environment and Human Health, Inc. (EHHI), a nonprofit organization headquartered in North Haven, Connecticut, commissioned a study on whether artificial turf sports fields can contribute to increased water contamination from rain or from spraying or misting. The study found that 25 different chemical species and 4 metals (zinc, selenium, lead, and cadmium) could be released into water from rubber infill. Additionally, synthetic turf does not absorb or filter rain water in the same fashion as native vegetation, and as a result, any leaching of chemicals or loss

of in-fill material has a greater chance to runoff into storm drains or into the municipal sewer system.

Question 4: Provide specifics on whether the new generation of turf has improved with regard to environmental and disposal impacts (i.e., can it be recycled); lifespan of various turf products; and is it made from recycled materials.

Product Manufacture

Artificial turf or synthetic grass was originally produced by the Chemstrand Company (later renamed Monsanto Textiles Company) in the early 1960s. The manufacturing process is similar to those used in the carpet industry. In the early 1970s, artificial turf came under scrutiny due to safety and quality concerns. Earlier products would wear too quickly, seams would come apart, and top layers exposed to sunlight would degrade. Over time, and in response to product acceptance, many synthetic turf products have been improved with new designs and materials, including some recycled infill material. The fibers that make up the blades of synthetic grass are made of nylon or polypropylene and are manufactured in numerous ways. The newer synthetic turf products are chemically treated to be resistant to ultraviolet rays, and the materials have been improved to be more wear-resistant, softer and less abrasive, and, in some higher-end applications, more similar to natural grass.

Artificial turf systems can be either filled or unfilled. Some artificial turf components may contain recycled material and cushioning base layers are typically made from rubber compounds or from polyester foam. Rubber tires are sometimes used in the composition of the rubber base or in-fill material, and some of the materials used in backing can come from plastic or rubber recycling programs. Artificial turf for sports fields is made of a blended polyethylene–polypropylene material woven to simulate blades of grass. A layer of infill material made of recycled tires (and sometimes mixed with silica sand) provides cushioning and helps the fibers to stand upright and reduce compaction.

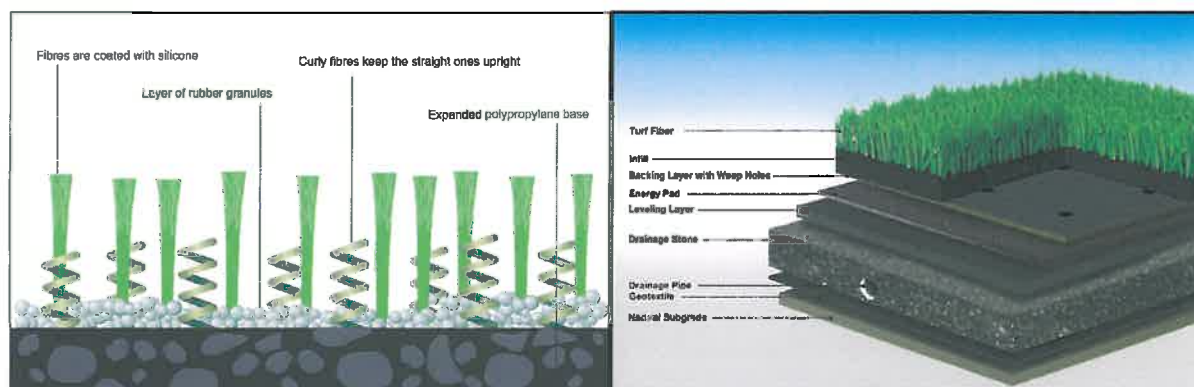


Figure 1. Profile of Artificial Turf In-Fill Materials and Layered Construction

A filled system is designed so that once installed a material such as crumbled cork, rubber pellets, or sand (or a mixture) is spread over the turf and raked down in between the fibers. The material helps support the blades of fiber and provides a surface with some give to feel more like the soil under a natural grass surface. Filled systems have some limitations and higher

maintenance costs. Filling material like cork can break down or the filling material can become contaminated with dirt, compacted or washed away. Maintenance may require removing and replacing the entire fill.

Lifespan and Recyclable Materials

The lifespan for artificial turf products varies greatly with the quality of construction, material composition and level of play. Most of the studies and estimates on longevity relate to sports field applications with a projected lifespan of 10 to 12 years, after which the material must be disposed of appropriately. Use in residential settings with less foot traffic could extend the lifecycle of artificial turf. The Synthetic Turf Council has stated that artificial turf infill can be cleaned and some material reused onsite or recycled as an additive to rubber asphalt. Other materials can be incinerated. Typically, however, most artificial turf products are landfilled at the end of their useful life along with the soil that is typically cleared from the installation site.

Some European companies are pursuing new innovative ways to address concerns regarding recycled tire infill in synthetic turf. In Italy, for example, there is an effort to market synthetic turf fields that feature infill made of a new thermoplastic material that is thought to be nontoxic. The company Mondo, a manufacturer of floor surfaces, produces a product labeled Ecofill, a patented polyolefin-based granule used in synthetic turf. According to the company, this material disperses heat more efficiently, is highly shock absorbent, does not contain harmful chemicals, and is 100% recyclable. Another alternative for infill is products made from plant-derived materials such as coconut husks and cork.

Question 5: Provide a list of California agencies that do not rebate artificial turf.

The table below contains a partial list of Bay Area cities and water purveyors that do not have a rebate for artificial turf or synthetic grass.

Table 1. Bay Area Water Purveyors That Do Not Provide Artificial Turf Rebates^{1/}

Alameda County Water Dist.	City of Mountain View	Menlo Park
California Water Service Co.	City of Palo Alto	Mid-Peninsula Water District
City of Benicia	City of Redwood City	Napa County
City of Brisbane	City of Sacramento	Purissima Hills Water District
City of Cotati	City of San Jose	San Jose Water Company
City of Cupertino	City of Santa Clara Water & Sewer	Santa Clara Valley Water Dist.
City of Daly City	City of Santa Rosa	Solano County Water Agency
City of Fairfield	City of Sonoma	Stanford University Utilities
City of Foster City	Stockton Municipal Utilities Div.	Town of Los Altos
City of Hayward	City of Sunnyvale	Town of Windsor
City of Hollister	City of Vacaville	Valley of the Moon Water Dist.
City of Menlo Park	City of Vallejo	Water Resources Association of
City of Milpitas	Coastside County Water District	San Benito County
City of Morgan Hill	Dublin San Ramon Services District	

^{1/} Data obtained from agency websites and telephone interviews.

FISCAL IMPACT

The artificial turf rebate pilot would be funded within the approved \$6 million FY16 Water Conservation Program and drought response budget. The District would continue to pursue new state and federal grant funding opportunities as they become available.

NEXT STEPS

If a pilot artificial turf incentive program is approved, staff will require approximately three to four weeks to prepare program materials including a fact sheet, eligibility criteria, rebate application and website updates.

ARC:SAH:rwh

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 28, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Cheryl A. Farr, Special Assistant to the General Manager *Cheryl*

SUBJECT: 2015 Critical Drought Action Plan Update

SUMMARY

This memo provides a brief update on recent activities related to the 2015 Critical Drought Action Plan. There have been no significant variances from the adopted plan.

DISCUSSION

Statewide Drought Report. The District submitted its latest monthly report on water production data to the State Water Resources Control Board on July 15, 2015. We reported that EBMUD's June 2015 production was 31% lower than June 2013 production (4,778.2 million gallons compared to 6,927.5 million gallons). On average, residential customers used 69 gallons per capita per day in June 2015. The report also stated that EBMUD received 990 water waste complaints in June and implemented 85 formal warning actions for water waste and/or violation of conservation rules.

Customer Outreach. Staff is continuing to implement the Critical Drought Action Plan. There are no significant changes to report during the second half of July. Two new videos are launching the week of July 27th that will show customers how to adjust irrigation systems and use mulch to reduce water demand in their landscapes.

NEXT STEPS

Staff will continue to provide a comprehensive monthly report on the Critical Drought Action Plan at the first Board meeting of each month and a brief summary highlighting recent activities and significant changes at the second Board meeting of each month.

ARC:CAF

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AST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 23, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Rischa S. Cole, Acting Secretary of the District *Rischa*

SUBJECT: Planning Committee Minutes – July 14, 2015

Chair Lesa R. McIntosh called to order the Planning Committee in the Training Resource Center at 9:15 a.m. Director Doug Linney participated via teleconference and Director Marguerite Young was absent (excused). Staff present included: General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Water and Natural Resources Richard G. Sykes, Senior Civil Engineer Thomas B. Francis, Manager of Customer and Community Services Sherri A. Hong, Contract Equity Program Administrator Beverly D. Johnson, Manager of Water Conservation Richard W. Harris, Special Assistant to the General Manager Cheryl A. Farr, and Acting Secretary of the District Rischa S. Cole.

Public Comment. None.

Completion of the Mokelumne Watershed Interregional Sustainability Evaluation (MokeWISE) Program. Senior Civil Engineer Thomas B. Francis provided an update on the recently completed MokeWISE program work effort. MokeWISE was initiated in the fall of 2014 as a partnership, grant-funded effort on behalf of the Upper Mokelumne River Watershed Authority (UMRWA) and the Eastern San Joaquin County Groundwater Basin Authority (GBA) to generate a portfolio of water resources project proposals in the Mokelumne watershed that could be broadly supported by stakeholders and be sufficiently developed to inform future local and regional grant funding requests. The District, along with 25 diverse agencies and organizations that included water agency representatives from San Joaquin County, Amador County and Calaveras County participated in MokeWISE's Mokelumne Collaborative Group (MCG), the stakeholder body established to guide the development of the MokeWISE program. The group reviewed and screened a wide array of project concepts and twenty-five projects were selected for future implementation. Projects that are of particular interest to EBMUD include: Fish Screens for Riparian Diversions in the Lower Mokelumne, Groundwater Banking within the Eastern San Joaquin County Groundwater Basin, Reoperation of Existing Storage; and the Sustainable Forest - Watershed Management Project. Outreach and stakeholder involvement included five public meetings upcountry. UMRWA and the GBA are asking each MCG member agency and organization to adopt a resolution of support for the MokeWISE program that will confirm the entity's support for the projects contained in the MokeWISE Implementation Plan. The EBMUD Board of Directors will be asked to consider a resolution supporting the MokeWISE program on July 28, 2015. The Committee congratulated staff on its work on this collaborative process.

Stormwater Capture Study. Senior Civil Engineer Thomas B. Francis provided an update on a study to evaluate stormwater capture from the roofs of single and multi-family residential customers within the EBMUD service area. The study found that in normal water years, the potential exists to collect nearly 21,000 acre feet (af) of runoff and in a critically dry year the

potential falls to just over 8,000 if every residential customer were to install a rooftop collection system. The cost of installing appropriately sized collection systems on all single family and multi-family residential lots was estimated at \$3 billion to \$6 billion. Also, systems to capture rainwater in sufficient quantities and contain it for landscape uses require more space than is typically available on many residential lots.

Mr. Francis said that staff recommends identifying ways to provide additional information to customers regarding stormwater capture systems, continuing customer rebates, incorporating landscape water budgets and 20 x 2020 provisions, exploring how to promote linking gray water reuse systems with stormwater capture systems and considering future low impact development best practices in requests for new services.

There was discussion about the option of burying rainwater capture tanks to minimize their impact on yard space and of the fiscal impact to EBMUD of rainwater capture. Elizabeth Dougherty representing Wholly H2O encouraged the District to support rainwater harvesting with rebates and to invest in additional studies. Sonia Diermayer representing the Sierra Club shared information regarding San Francisco's rainwater harvesting activities and suggested it could offer a model for the District's consideration. The Committee requested that a copy of the District's stormwater capture study be distributed to the Board, and staff replied that the final report would be distributed later this summer.

Water Conservation Services for Multi-Family Residential/Senior Housing. Manager of Water Conservation Richard W. Harris presented an update on current and planned FY16 conservation initiatives for master-metered customers. He reported that the District has increased outreach activities to multi-family tenants, property managers and senior housing customers in response to the ongoing drought. He highlighted how the District is using water use surveys to promote water-efficient behavior and hardware installations and is pursuing partnerships with community-based organizations, non-profits and other service providers to support conservation efforts by harder-to-reach customer sectors. Mr. Harris described efforts to work with PG&E and their third-party service provider on their Energy Savings Assistance program, which includes conducting home energy audits and installing energy-saving measures and simple water-saving measures like faucet aerators, low-flow shower heads and thermostatic shower shut-off valves. The District will continue to conduct community outreach and partner with other organizations to maintain a core community presence and provide sustained conservation education services.

Mr. Harris noted that future activities will emphasize professional training, community partner and stakeholder group participation, and external communications to provide customers with District conservation services and information concerning the drought and water use restrictions.

Recycled Water Update. Due to time constraints, this item was held over to a future meeting.

Adjournment. Chair McIntosh adjourned the meeting at 10:15 a.m.

ARC/RSC /slb

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 23, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Rischa S. Cole, Acting Secretary of the District *Rischa*

SUBJECT: Legislative/Human Resources Committee Minutes – July 14, 2015

Chair John A. Coleman called to order the Legislative/Human Resources Committee at 10:20 a.m. in the Training Resource Center. Directors Lesa R. McIntosh and Director William B. Patterson were present at roll call. Staff present included: General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Manager of Customer and Community Services Sherri A. Hong, Contract Equity Administrator Beverly D. Johnson, Special Assistant to the General Manager Cheryl A. Farr, and Acting Secretary of the District Rischa S. Cole.

Public Comment. None.

Contract Equity Program (CEP) Enhancements. Contract Equity Administrator Beverly D. Johnson presented an update on proposed enhancements to the District's Contract Equity Program (CEP). Staff is recommending a pilot local hire component on four District construction projects; each project would have a good faith goal of 50 percent for local residents (with 30 percent being from the county(ies) directly impacted by the project). She outlined the key criteria for the local hire pilot and described how staff plans to measure local hire participation. Ms. Johnson also reported that staff is recommending the District expand its small business definition to include disabled veteran business enterprises (DVBE). She noted that most DVBEs are small businesses (SBEs) and able to take advantage of the District's SBE five percent bid discount incentive. Expanding the small business definition to include DVBEs is expected to encourage participation. Finally, Ms. Johnson said that staff's final recommendations would be presented to the Board for consideration at its regular meeting of July 14 and if approved, enhancements would be implemented by October 2015.

The Committee commended staff's efforts regarding both recommendations. Committee members recommended that RichmondBuild be added to the list of resource agencies for contractors for the pilot local hire program outreach and that the federal Department of Veteran Affairs and the Wounded Warriors of Contra Costa County be added to the list of resource agencies for DVBE outreach. It was moved (Patterson), seconded (McIntosh), and carried (3-0) to support the staff recommendations with all members voting "yes."

Adjournment. Chair Coleman adjourned the meeting at 10:50 a.m.

ARC/RSC/slb

