

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—108th Cong., 2d Sess.

H.R. 2828

To authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Water Supply, Reliability, and Environmental Improve-
6 ment Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL
ENHANCEMENT

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Bay Delta program.
- Sec. 104. Management.
- Sec. 105. Reporting requirements.
- Sec. 106. Crosscut budget.
- Sec. 107. Federal share of costs.
- Sec. 108. Compliance with State and Federal law.
- Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

- Sec. 201. Salton Sea study program.
- Sec. 202. Alder Creek water storage and conservation project feasibility study
and report.
- Sec. 203. Folsom Reservoir temperature control device authorization.

1 **TITLE I—CALIFORNIA WATER**
2 **SECURITY AND ENVIRON-**
3 **MENTAL ENHANCEMENT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Calfed Bay-Delta Au-
6 thorization Act”.

7 **SEC. 102. DEFINITIONS.**

8 In this title:

9 (1) CALFED BAY-DELTA PROGRAM.—The terms
10 “Calfed Bay-Delta Program” and “Program” mean
11 the programs, projects, complementary actions, and
12 activities undertaken through coordinated planning,
13 implementation, and assessment activities of the
14 State agencies and Federal agencies as set forth in
15 the Record of Decision.

16 (2) CALIFORNIA BAY-DELTA AUTHORITY.—The
17 terms “California Bay-Delta Authority” and “Au-

1 thority” mean the California Bay-Delta Authority,
2 as set forth in the California Bay-Delta Authority
3 Act (Cal. Water Code § 79400 et seq.).

4 (3) DELTA.—The term “Delta” has the mean-
5 ing given the term in the Record of Decision.

6 (4) ENVIRONMENTAL WATER ACCOUNT.—The
7 term “Environmental Water Account” means the
8 Cooperative Management Program established under
9 the Record of Decision.

10 (5) FEDERAL AGENCIES.—The term “Federal
11 agencies” means—

12 (A) the Department of the Interior,
13 including—

14 (i) the Bureau of Reclamation;

15 (ii) the United States Fish and Wild-
16 life Service;

17 (iii) the Bureau of Land Management;

18 and

19 (iv) the United States Geological Sur-
20 vey;

21 (B) the Environmental Protection Agency;

22 (C) the Army Corps of Engineers;

23 (D) the Department of Commerce, includ-
24 ing the National Marine Fisheries Service (also
25 known as “NOAA Fisheries”);

1 (E) the Department of Agriculture,
2 including—

3 (i) the Natural Resources Conserva-
4 tion Service; and

5 (ii) the Forest Service; and

6 (F) the Western Area Power Administra-
7 tion.

8 (6) FIRM YIELD.—The term “firm yield” means
9 a quantity of water from a project or program that
10 is projected to be available on a reliable basis, given
11 a specified level of risk, during a critically dry pe-
12 riod.

13 (7) GOVERNOR.—The term “Governor” means
14 the Governor of the State of California.

15 (8) RECORD OF DECISION.—The term “Record
16 of Decision” means the Calfed Bay-Delta Program
17 Record of Decision, dated August 28, 2000.

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

20 (10) STATE.—The term “State” means the
21 State of California.

22 (11) STATE AGENCIES.—The term “State agen-
23 cies” means—

24 (A) the Resources Agency of California,
25 including—

1 (i) the Department of Water Re-
2 sources;

3 (ii) the Department of Fish and
4 Game;

5 (iii) the Reclamation Board;

6 (iv) the Delta Protection Commission;

7 (v) the Department of Conservation;

8 (vi) the San Francisco Bay Conserva-
9 tion and Development Commission;

10 (vii) the Department of Parks and
11 Recreation; and

12 (viii) the California Bay-Delta Au-
13 thority;

14 (B) the California Environmental Protec-
15 tion Agency, including the State Water Re-
16 sources Control Board;

17 (C) the California Department of Food
18 and Agriculture; and

19 (D) the Department of Health Services.

20 **SEC. 103. BAY DELTA PROGRAM.**

21 (a) IN GENERAL.—

22 (1) RECORD OF DECISION AS GENERAL FRAME-
23 WORK.—The Record of Decision is approved as a
24 general framework for addressing the Calfed Bay-
25 Delta Program, including its components relating to

1 water storage, ecosystem restoration, water supply
2 reliability (including new firm yield), conveyance,
3 water use efficiency, water quality, water transfers,
4 watersheds, the Environmental Water Account, levee
5 stability, governance, and science.

6 (2) REQUIREMENTS.—

7 (A) IN GENERAL.—The Secretary and the
8 heads of the Federal agencies are authorized to
9 carry out the activities described in subsections
10 (c) through (f) consistent with—

11 (i) the Record of Decision;

12 (ii) the requirement that Program ac-
13 tivities consisting of protecting drinking
14 water quality, restoring ecological health,
15 improving water supply reliability (includ-
16 ing additional storage, conveyance, and
17 new firm yield), and protecting Delta lev-
18 ees will progress in a balanced manner;
19 and

20 (iii) this title.

21 (B) MULTIPLE BENEFITS.—In selecting
22 activities and projects, the Secretary and the
23 heads of the Federal agencies shall consider
24 whether the activities and projects have mul-
25 tiple benefits.

1 (b) AUTHORIZED ACTIVITIES.—The Secretary and
2 the heads of the Federal agencies are authorized to carry
3 out the activities described in subsections (c) through (f)
4 in furtherance of the Calfed Bay-Delta Program as set
5 forth in the Record of Decision, subject to the cost-share
6 and other provisions of this title, if the activity has been—

7 (1) subject to environmental review and ap-
8 proval, as required under applicable Federal and
9 State law; and

10 (2) approved and certified by the relevant Fed-
11 eral agency, following consultation and coordination
12 with the Governor, to be consistent with the Record
13 of Decision.

14 (c) AUTHORIZATIONS FOR FEDERAL AGENCIES
15 UNDER APPLICABLE LAW.—

16 (1) SECRETARY OF THE INTERIOR.—The Sec-
17 retary of the Interior is authorized to carry out the
18 activities described in paragraphs (1) through (10)
19 of subsection (d), to the extent authorized under the
20 reclamation laws, the Central Valley Project Im-
21 provement Act (title XXXIV of Public Law 102–
22 575; 106 Stat. 4706), the Fish and Wildlife Coordi-
23 nation Act (16 U.S.C. 661 et seq.), the Endangered
24 Species Act of 1973 (16 U.S.C. 1531 et seq.), and
25 other applicable law.

1 (2) ADMINISTRATOR OF THE ENVIRONMENTAL
2 PROTECTION AGENCY.—The Administrator of the
3 Environmental Protection Agency is authorized to
4 carry out the activities described in paragraphs (3),
5 (5), (6), (7), (8), and (9) of subsection (d), to the
6 extent authorized under the Federal Water Pollution
7 Control Act (33 U.S.C. 1251 et seq.), the Safe
8 Drinking Water Act (42 U.S.C. 300f et seq.), and
9 other applicable law.

10 (3) SECRETARY OF THE ARMY.—The Secretary
11 of the Army is authorized to carry out the activities
12 described in paragraphs (1), (2), (6), (7), (8), and
13 (9) of subsection (d), to the extent authorized under
14 flood control, water resource development, and other
15 applicable law.

16 (4) SECRETARY OF COMMERCE.—The Secretary
17 of Commerce is authorized to carry out the activities
18 described in paragraphs (2), (6), (7), and (9) of sub-
19 section (d), to the extent authorized under the Fish
20 and Wildlife Coordination Act (16 U.S.C. 661 et
21 seq.), the Endangered Species Act of 1973 (16
22 U.S.C. 1531 et seq.), and other applicable law.

23 (5) SECRETARY OF AGRICULTURE.—The Sec-
24 retary of Agriculture is authorized to carry out the
25 activities described in paragraphs (3), (5), (6), (7),

1 (8), and (9) of subsection (d), to the extent author-
2 ized under title XII of the Food Security Act of
3 1985 (16 U.S.C. 3801 et seq.), the Farm Security
4 and Rural Investment Act of 2002 (Public Law
5 107–171; 116 Stat. 134) (including amendments
6 made by that Act), and other applicable law.

7 (d) DESCRIPTION OF ACTIVITIES UNDER APPLICA-
8 BLE LAW.—

9 (1) WATER STORAGE.—

10 (A) IN GENERAL.—Activities under this
11 paragraph consist of—

12 (i) planning and feasibility studies for
13 projects to be pursued with project-specific
14 study for enlargement of—

15 (I) the Shasta Dam in Shasta
16 County; and

17 (II) the Los Vaqueros Reservoir
18 in Contra Costa County;

19 (ii) planning and feasibility studies for
20 the following projects requiring further
21 consideration—

22 (I) the Sites Reservoir in Colusa
23 County; and

1 (II) the Upper San Joaquin
2 River storage in Fresno and Madera
3 Counties;

4 (iii) developing and implementing
5 groundwater management and ground-
6 water storage projects; and

7 (iv) comprehensive water management
8 planning.

9 (B) STORAGE PROJECT AUTHORIZATION
10 AND BALANCED CALFED IMPLEMENTATION.—

11 (i) IN GENERAL.—If on completion of
12 the feasibility study for a project described
13 in clause (i) or (ii) of subparagraph (A),
14 the Secretary, in consultation with the
15 Governor, determines that the project
16 should be constructed in whole or in part
17 with Federal funds, the Secretary shall
18 submit the feasibility study to Congress.

19 (ii) FINDING OF IMBALANCE.—If Con-
20 gress fails to authorize construction of the
21 project by the end of the next full session
22 following the submission of the feasibility
23 study, the Secretary, in consultation with
24 the Governor, shall prepare a written de-

1 termination making a finding of imbalance
2 for the Calfed Bay-Delta Program.

3 (iii) REPORT ON REBALANCING.—

4 (I) IN GENERAL.—If the Sec-
5 retary makes a finding of imbalance
6 for the Program under clause (ii), the
7 Secretary, in consultation with the
8 Governor, shall, not later than 180
9 days after the end of the full session
10 described in clause (ii), prepare and
11 submit to Congress a report on the
12 measures necessary to rebalance the
13 Program.

14 (II) SCHEDULES AND ALTER-
15 NATIVES.—The report shall include
16 preparation of revised schedules and
17 identification of alternatives to rebal-
18 ance the Program, including resub-
19 mission of the project to Congress
20 with or without modification, con-
21 struction of other projects, and con-
22 struction of other projects that pro-
23 vide equivalent water supply and other
24 benefits at equal or lesser cost.

25 (C) WATER SUPPLY AND YIELD STUDY.—

1 (i) IN GENERAL.—The Secretary, act-
2 ing through the Bureau of Reclamation
3 and in coordination with the State, shall
4 conduct a study of available water supplies
5 and existing and future needs for water—

6 (I) within the units of the Cen-
7 tral Valley Project;

8 (II) within the area served by
9 Central Valley Project agricultural,
10 municipal, and industrial water serv-
11 ice contractors; and

12 (III) within the Calfed Delta so-
13 lution area.

14 (ii) RELATIONSHIP TO PRIOR
15 STUDY.—In conducting the study, the Sec-
16 retary shall incorporate and revise, as nec-
17 essary, the results of the study required by
18 section 3408(j) of the Central Valley
19 Project Improvement Act of 1992 (Public
20 Law 102–575; 106 Stat. 4730).

21 (iii) REPORT.—Not later than 1 year
22 after the date of enactment of this Act, the
23 Secretary shall submit to the appropriate
24 authorizing and appropriating committees
25 of the Senate and the House of Represent-

1 atives a report describing the results of the
2 study, including—

3 (I) new firm yield and water sup-
4 ply improvements, if any, for Central
5 Valley Project agricultural water serv-
6 ice contractors and municipal and in-
7 dustrial water service contractors, in-
8 cluding those identified in Bulletin
9 160;

10 (II) all water management ac-
11 tions or projects, including those iden-
12 tified in Bulletin 160, that would—

13 (aa) improve firm yield or
14 water supply; and

15 (bb) if taken or constructed,
16 balance available water supplies
17 and existing demand with due
18 recognition of water right prior-
19 ities and environmental needs;

20 (III) the financial costs of the ac-
21 tions and projects described under
22 subclause (II); and

23 (IV) the beneficiaries of those ac-
24 tions and projects and an assessment
25 of the willingness of the beneficiaries

1 to pay the capital costs and operation
2 and maintenance costs of the actions
3 and projects.

4 (D) MANAGEMENT.—The Secretary shall
5 conduct activities related to developing ground-
6 water storage projects to the extent authorized
7 under law.

8 (E) COMPREHENSIVE WATER PLANNING.—
9 The Secretary shall conduct activities related to
10 comprehensive water management planning to
11 the extent authorized under law.

12 (2) CONVEYANCE.—

13 (A) SOUTH DELTA ACTIONS.—

14 (i) IN GENERAL.—In the case of the
15 South Delta, activities under this subpara-
16 graph consist of—

17 (I) the South Delta Improve-
18 ments Program through actions to—

19 (aa) increase the State
20 Water Project export limit to
21 8,500 cfs;

22 (bb) install permanent, oper-
23 able barriers in the South Delta,
24 under which Federal agencies
25 shall cooperate with the State to

1 accelerate installation of the per-
2 manent, operable barriers in the
3 South Delta, with an intent to
4 complete that installation not
5 later than September 30, 2007;

6 (cc) evaluate, consistent with
7 the Record of Decision, fish
8 screens and intake facilities at
9 the Tracy Pumping Plant facili-
10 ties; and

11 (dd) increase the State
12 Water Project export to the max-
13 imum capability of 10,300 cfs;

14 (II) reduction of agricultural
15 drainage in South Delta channels, and
16 other actions necessary to minimize
17 the impact of drainage on drinking
18 water quality;

19 (III) evaluation of lower San
20 Joaquin River floodway improve-
21 ments;

22 (IV) installation and operation of
23 temporary barriers in the South Delta
24 until fully operable barriers are con-
25 structed; and

1 (V) actions to protect navigation
2 and local diversions not adequately
3 protected by temporary barriers.

4 (ii) ACTIONS TO INCREASE PUMP-
5 ING.—Actions to increase pumping shall be
6 accomplished in a manner consistent with
7 the Record of Decision requirement to
8 avoid redirected impacts and adverse im-
9 pacts to fishery protection and with any
10 applicable Federal or State law that
11 protects—

12 (I) water diversions and use (in-
13 cluding avoidance of increased costs of
14 diversion) by in-Delta water users (in-
15 cluding in-Delta agricultural users
16 that have historically relied on water
17 diverted for use in the Delta);

18 (II) water quality for municipal,
19 industrial, agricultural, and other
20 uses; and

21 (III) water supplies for areas of
22 origin.

23 (B) NORTH DELTA ACTIONS.—In the case
24 of the North Delta, activities under this sub-
25 paragraph consist of—

1 (i) evaluation and implementation of
2 improved operational procedures for the
3 Delta Cross Channel to address fishery
4 and water quality concerns;

5 (ii) evaluation of a screened through-
6 Delta facility on the Sacramento River;
7 and

8 (iii) evaluation of lower Mokelumne
9 River floodway improvements.

10 (C) INTERTIES.—Activities under this sub-
11 paragraph consist of—

12 (i) evaluation and construction of an
13 intertie between the State Water Project
14 California Aqueduct and the Central Valley
15 Project Delta Mendota Canal, near the
16 City of Tracy, as an operation and mainte-
17 nance activity, except that the Secretary
18 shall design and construct the intertie in a
19 manner consistent with a possible future
20 expansion of the intertie capacity (as de-
21 scribed in subsection (f)(1)(B)); and

22 (ii) assessment of a connection of the
23 Central Valley Project to the Clifton Court
24 Forebay of the State Water Project, with

1 a corresponding increase in the screened
2 intake of the Forebay.

3 (D) PROGRAM TO MEET STANDARDS.—

4 (i) IN GENERAL.—Prior to increasing
5 export limits from the Delta for the pur-
6 poses of conveying water to south-of-Delta
7 Central Valley Project contractors or in-
8 creasing deliveries through an intertie, the
9 Secretary shall, not later than 1 year after
10 the date of enactment of this Act, in con-
11 sultation with the Governor, develop and
12 initiate implementation of a program to
13 meet all existing water quality standards
14 and objectives for which the Central Valley
15 Project has responsibility.

16 (ii) MEASURES.—In developing and
17 implementing the program, the Secretary
18 shall include, to the maximum extent fea-
19 sible, the measures described in clauses
20 (iii) through (vii).

21 (iii) RECIRCULATION PROGRAM.—The
22 Secretary shall incorporate into the pro-
23 gram a recirculation program to provide
24 flow, reduce salinity concentrations in the
25 San Joaquin River, and reduce the reliance

1 on the New Melones Reservoir for meeting
2 water quality and fishery flow objectives
3 through the use of excess capacity in ex-
4 port pumping and conveyance facilities.

5 (iv) BEST MANAGEMENT PRACTICES
6 PLAN.—

7 (I) IN GENERAL.—The Secretary
8 shall develop and implement, in co-
9 ordination with the State's programs
10 to improve water quality in the San
11 Joaquin River, a best management
12 practices plan to reduce the water
13 quality impacts of the discharges from
14 wildlife refuges that receive water
15 from the Federal Government and dis-
16 charge salt or other constituents into
17 the San Joaquin River.

18 (II) COORDINATION WITH INTER-
19 ESTED PARTIES.—The plan shall be
20 developed in coordination with inter-
21 ested parties in the San Joaquin Val-
22 ley and the Delta.

23 (III) COORDINATION WITH ENTI-
24 TIES THAT DISCHARGE WATER.—The
25 Secretary shall also coordinate activi-

1 ties under this clause with other enti-
2 ties that discharge water into the San
3 Joaquin River to reduce salinity con-
4 centrations discharged into the River,
5 including the timing of discharges to
6 optimize their assimilation.

7 (v) ACQUISITION OF WATER.—The
8 Secretary shall incorporate into the pro-
9 gram the acquisition from willing sellers of
10 water from streams tributary to the San
11 Joaquin River or other sources to provide
12 flow, dilute discharges of salt or other con-
13 stituents, and to improve water quality in
14 the San Joaquin River below the con-
15 fluence of the Merced and San Joaquin
16 Rivers, and to reduce the reliance on New
17 Melones Reservoir for meeting water qual-
18 ity and fishery flow objectives.

19 (vi) PURPOSE.—The purpose of the
20 authority and direction provided to the
21 Secretary under this subparagraph is to
22 provide greater flexibility in meeting the
23 existing water quality standards and objec-
24 tives for which the Central Valley Project
25 has responsibility so as to reduce the de-

1 mand on water from New Melones Res-
2 ervoir used for that purpose and to assist
3 the Secretary in meeting any obligations to
4 Central Valley Project contractors from the
5 New Melones Project.

6 (vii) UPDATING OF NEW MELONES OP-
7 ERATING PLAN.—The Secretary shall up-
8 date the New Melones operating plan to
9 take into account, among other things, the
10 actions described in this title that are de-
11 signed to reduce the reliance on New
12 Melones Reservoir for meeting water qual-
13 ity and fishery flow objectives, and to en-
14 sure that actions to enhance fisheries in
15 the Stanislaus River are based on the best
16 available science.

17 (3) WATER USE EFFICIENCY.—

18 (A) WATER CONSERVATION PROJECTS.—
19 Activities under this paragraph include water
20 conservation projects that provide water supply
21 reliability, water quality, and ecosystem benefits
22 to the California Bay-Delta system.

23 (B) TECHNICAL ASSISTANCE.—Activities
24 under this paragraph include technical assist-

1 ance for urban and agricultural water conserva-
2 tion projects.

3 (C) WATER RECYCLING AND DESALINA-
4 TION PROJECTS.—Activities under this para-
5 graph include water recycling and desalination
6 projects, including groundwater remediation
7 projects and projects identified in the Bay Area
8 Water Plan and the Southern California Com-
9 prehensive Water Reclamation and Reuse Study
10 and other projects, giving priority to projects
11 that include regional solutions to benefit re-
12 gional water supply and reliability needs.

13 (D) WATER MEASUREMENT AND TRANS-
14 FER ACTIONS.—Activities under this paragraph
15 include water measurement and transfer ac-
16 tions.

17 (E) URBAN WATER CONSERVATION.—Ac-
18 tivities under this paragraph include implemen-
19 tation of best management practices for urban
20 water conservation.

21 (F) RECLAMATION AND RECYCLING
22 PROJECTS.—

23 (i) PROJECTS.—This subparagraph
24 applies to—

1 (I) projects identified in the
2 Southern California Comprehensive
3 Water Reclamation and Reuse Study,
4 dated April 2001 and authorized by
5 section 1606 of the Reclamation
6 Wastewater and Groundwater Study
7 and Facilities Act (43 U.S.C. 390h-
8 4); and

9 (II) projects identified in the San
10 Francisco Bay Area Regional Water
11 Recycling Program described in the
12 San Francisco Bay Area Regional
13 Water Recycling Program Recycled
14 Water Master Plan, dated December
15 1999 and authorized by section 1611
16 of the Reclamation Wastewater and
17 Groundwater Study and Facilities Act
18 (43 U.S.C. 390h-9).

19 (ii) DEADLINE.—Not later than 180
20 days after the date of enactment of this
21 Act, the Secretary shall—

22 (I) complete the review of the ex-
23 isting studies of the projects described
24 in clause (i); and

1 (II) make the feasibility deter-
2 minations described in clause (iii).

3 (iii) FEASIBILITY DETERMINA-
4 TIONS.—A project described in clause (i) is
5 presumed to be feasible if the Secretary
6 determines for the project—

7 (I) in consultation with the af-
8 fected local sponsoring agency and the
9 State, that the existing planning and
10 environmental studies for the project
11 (together with supporting materials
12 and documentation) have been pre-
13 pared consistent with Bureau of Rec-
14 lamation procedures for projects
15 under consideration for financial as-
16 sistance under the Reclamation
17 Wastewater and Groundwater Study
18 and Facilities Act (43 U.S.C. 390h et
19 seq.); and

20 (II) that the planning and envi-
21 ronmental studies for the project (to-
22 gether with supporting materials and
23 documentation) demonstrate that the
24 project will contribute to the goals of
25 improving water supply reliability in

1 the Calfed solution area or the Colo-
2 rado River Basin within the State and
3 otherwise meets the requirements of
4 section 1604 of the Reclamation
5 Wastewater and Groundwater Study
6 and Facilities Act (43 U.S.C. 390h-
7 2).

8 (iv) REPORT.—Not later than 90 days
9 after the date of completion of a feasibility
10 study or the review of a feasibility study
11 under this subparagraph, the Secretary
12 shall submit to the appropriate authorizing
13 and appropriating committees of the Sen-
14 ate and the House of Representatives a re-
15 port describing the results of the study or
16 review.

17 (4) WATER TRANSFERS.—Activities under this
18 paragraph consist of—

19 (A) increasing the availability of existing
20 facilities for water transfers;

21 (B) lowering transaction costs through per-
22 mit streamlining; and

23 (C) maintaining a water transfer informa-
24 tion clearinghouse.

1 (5) INTEGRATED REGIONAL WATER MANAGE-
2 MENT PLANS.—Activities under this paragraph con-
3 sist of assisting local and regional communities in
4 the State in developing and implementing integrated
5 regional water management plans to carry out
6 projects and programs that improve water supply re-
7 liability, water quality, ecosystem restoration, and
8 flood protection, or meet other local and regional
9 needs, in a manner that is consistent with, and
10 makes a significant contribution to, the Calfed Bay-
11 Delta Program.

12 (6) ECOSYSTEM RESTORATION.—

13 (A) IN GENERAL.—Activities under this
14 paragraph consist of—

15 (i) implementation of large-scale res-
16 toration projects in San Francisco Bay and
17 the Delta and its tributaries;

18 (ii) restoration of habitat in the Delta,
19 San Pablo Bay, and Suisun Bay and
20 Marsh, including tidal wetland and ripar-
21 ian habitat;

22 (iii) fish screen and fish passage im-
23 provement projects, including the Sac-
24 ramento River Small Diversion Fish
25 Screen Program;

1 (iv) implementation of an invasive
2 species program, including prevention, con-
3 trol, and eradication;

4 (v) development and integration of
5 Federal and State agricultural programs
6 that benefit wildlife into the Ecosystem
7 Restoration Program;

8 (vi) financial and technical support
9 for locally-based collaborative programs to
10 restore habitat while addressing the con-
11 cerns of local communities;

12 (vii) water quality improvement
13 projects to manage or reduce concentra-
14 tions of salinity, selenium, mercury, pes-
15 ticides, trace metals, dissolved oxygen, tur-
16 bidity, sediment, and other pollutants;

17 (viii) land and water acquisitions to
18 improve habitat and fish spawning and
19 survival in the Delta and its tributaries;

20 (ix) integrated flood management,
21 ecosystem restoration, and levee protection
22 projects;

23 (x) scientific evaluations and targeted
24 research on Program activities; and

1 (xi) strategic planning and tracking of
2 Program performance.

3 (B) REPORTING REQUIREMENTS.—The
4 Secretary or the head of the relevant Federal
5 agency (as appropriate under clause (ii)) shall
6 provide to the appropriate authorizing commit-
7 tees of the Senate and the House of Represent-
8 atives and other appropriate parties in accord-
9 ance with this subparagraph—

10 (i) an annual ecosystem program plan
11 report in accordance with subparagraph
12 (C); and

13 (ii) detailed project reports in accord-
14 ance with subparagraph (D).

15 (C) ANNUAL ECOSYSTEM PROGRAM
16 PLAN.—

17 (i) IN GENERAL.—Not later than Oc-
18 tober 1 of each year, with respect to each
19 ecosystem restoration action carried out
20 using Federal funds under this title, the
21 Secretary, in consultation with the Gov-
22 ernor, shall submit to the appropriate au-
23 thORIZING committees of the Senate and the
24 House of Representatives an annual eco-
25 system program plan report.

1 (ii) PURPOSES.—The purposes of the
2 report are—

3 (I) to describe the projects and
4 programs to implement this sub-
5 section in the following fiscal year;
6 and

7 (II) to establish priorities for
8 funding the projects and programs for
9 subsequent fiscal years.

10 (iii) CONTENTS.—The report shall
11 describe—

12 (I) the goals and objectives of the
13 programs and projects;

14 (II) program accomplishments;

15 (III) major activities of the pro-
16 grams;

17 (IV) the Federal agencies in-
18 volved in each project or program
19 identified in the plan and the cost-
20 share arrangements with cooperating
21 agencies;

22 (V) the resource data and eco-
23 logical monitoring data to be collected
24 for the restoration projects and how
25 the data are to be integrated, stream-

1 lined, and designed to measure the ef-
2 fectiveness and overall trend of eco-
3 system health in the Bay-Delta water-
4 shed;

5 (VI) implementation schedules
6 and budgets;

7 (VII) existing monitoring pro-
8 grams and performance measures;

9 (VIII) the status and effective-
10 ness of measures to minimize the im-
11 pacts of the program on agricultural
12 land; and

13 (IX) a description of expected
14 benefits of the restoration program
15 relative to the cost.

16 (iv) SPECIAL RULE FOR LAND ACQUI-
17 SITION USING FEDERAL FUNDS.—For each
18 ecosystem restoration project involving
19 land acquisition using Federal funds under
20 this title, the Secretary shall—

21 (I) identify the specific parcels to
22 be acquired in the annual ecosystem
23 program plan report under this sub-
24 paragraph; or

1 (II) not later than 150 days be-
2 fore the project is approved, provide
3 to the appropriate authorizing com-
4 mittees of the Senate and the House
5 of Representatives, the United States
6 Senators from the State, and the
7 United States Representative whose
8 district would be affected, notice of
9 any such proposed land acquisition
10 using Federal funds under this title
11 submitted to the Federal or State
12 agency.

13 (D) DETAILED PROJECT REPORTS.—

14 (i) IN GENERAL.—In the case of each
15 ecosystem restoration program or project
16 funded under this title that is not specifi-
17 cally identified in an annual ecosystem pro-
18 gram plan under subparagraph (C), not
19 later than 45 days prior to approval, the
20 Secretary, in coordination with the State,
21 shall submit to the appropriate authorizing
22 committees of the Senate and the House of
23 Representatives recommendations on the
24 proposed program or project.

1 (ii) CONTENTS.—The recommenda-
2 tions shall—

3 (I) describe the selection of the
4 program or project, including the level
5 of public involvement and independent
6 science review;

7 (II) describe the goals, objectives,
8 and implementation schedule of the
9 program or project, and the extent to
10 which the program or project address-
11 es regional and programmatic goals
12 and priorities;

13 (III) describe the monitoring
14 plans and performance measures that
15 will be used for evaluating the per-
16 formance of the proposed program or
17 project;

18 (IV) identify any cost-sharing ar-
19 rangements with cooperating entities;

20 (V) identify how the proposed
21 program or project will comply with
22 all applicable Federal and State laws,
23 including the National Environmental
24 Policy Act of 1969 (42 U.S.C. 4321
25 et seq.); and

1 (VI) in the case of any program
2 or project involving the acquisition of
3 private land using Federal funds
4 under this title—

5 (aa) describe the process
6 and timing of notification of in-
7 terested members of the public
8 and local governments;

9 (bb) describe the measures
10 taken to minimize impacts on ag-
11 ricultural land pursuant to the
12 Record of Decision; and

13 (cc) include preliminary
14 management plans for all prop-
15 erties to be acquired with Federal
16 funds, including an overview of
17 existing conditions (including
18 habitat types in the affected
19 project area), the expected eco-
20 logical benefits, preliminary cost
21 estimates, and implementation
22 schedules.

23 (7) WATERSHEDS.—Activities under this para-
24 graph consist of—

1 (A) building local capacity to assess and
2 manage watersheds affecting the Delta system;

3 (B) technical assistance for watershed as-
4 sessments and management plans; and

5 (C) developing and implementing locally-
6 based watershed conservation, maintenance,
7 and restoration actions.

8 (8) WATER QUALITY.—Activities under this
9 paragraph consist of—

10 (A) addressing drainage problems in the
11 San Joaquin Valley to improve downstream
12 water quality (including habitat restoration
13 projects that improve water quality) if—

14 (i) a plan is in place for monitoring
15 downstream water quality improvements;
16 and

17 (ii) State and local agencies are con-
18 sulted on the activities to be funded;
19 except that no right, benefit, or privilege is cre-
20 ated as a result of this subparagraph;

21 (B) implementation of source control pro-
22 grams in the Delta and its tributaries;

23 (C) developing recommendations through
24 scientific panels and advisory council processes
25 to meet the Calfed Bay-Delta Program goal of

1 continuous improvement in Delta water quality
2 for all uses;

3 (D) investing in treatment technology dem-
4 onstration projects;

5 (E) controlling runoff into the California
6 aqueduct, the Delta-Mendota Canal, and other
7 similar conveyances;

8 (F) addressing water quality problems at
9 the North Bay Aqueduct;

10 (G) supporting and participating in the de-
11 velopment of projects to enable San Francisco
12 Bay Area water districts, and water entities in
13 San Joaquin and Sacramento Counties, to work
14 cooperatively to address their water quality and
15 supply reliability issues, including—

16 (i) connections between aqueducts,
17 water transfers, water conservation meas-
18 ures, institutional arrangements, and infra-
19 structure improvements that encourage re-
20 gional approaches; and

21 (ii) investigations and studies of avail-
22 able capacity in a project to deliver water
23 to the East Bay Municipal Utility District
24 under its contract with the Bureau of Rec-
25 lamation, dated July 20, 2001, in order to

1 determine if such capacity can be utilized
2 to meet the objectives of this subpara-
3 graph;

4 (H) development of water quality ex-
5 changes and other programs to make high qual-
6 ity water available for urban and other users;

7 (I) development and implementation of a
8 plan to meet all Delta water quality standards
9 for which the Federal and State water projects
10 have responsibility;

11 (J) development of recommendations
12 through science panels and advisory council
13 processes to meet the Calfed Bay-Delta Pro-
14 gram goal of continuous improvement in water
15 quality for all uses; and

16 (K) projects that are consistent with the
17 framework of the water quality component of
18 the Calfed Bay-Delta Program.

19 (9) SCIENCE.—Activities under this paragraph
20 consist of—

21 (A) supporting establishment and mainte-
22 nance of an independent science board, tech-
23 nical panels, and standing boards to provide
24 oversight and peer review of the Program;

1 (B) conducting expert evaluations and sci-
2 entific assessments of all Program elements;

3 (C) coordinating existing monitoring and
4 scientific research programs;

5 (D) developing and implementing adaptive
6 management experiments to test, refine, and
7 improve scientific understandings;

8 (E) establishing performance measures,
9 and monitoring and evaluating the performance
10 of all Program elements; and

11 (F) preparing an annual science report.

12 (10) DIVERSIFICATION OF WATER SUPPLIES.—

13 Activities under this paragraph consist of actions to
14 diversify sources of level 2 refuge supplies and
15 modes of delivery to refuges while maintaining the
16 diversity of level 4 supplies pursuant to section
17 3406(d)(2) of the Central Valley Project Improve-
18 ment Act (Public Law 102–575; 106 Stat. 4723).

19 (e) NEW AND EXPANDED AUTHORIZATIONS FOR
20 FEDERAL AGENCIES.—

21 (1) IN GENERAL.—The heads of the Federal
22 agencies described in this subsection are authorized
23 to carry out the activities described in subsection (f)
24 during each of fiscal years 2005 through 2010, in
25 coordination with the Governor.

1 (2) SECRETARY OF THE INTERIOR.—The Sec-
2 retary of the Interior is authorized to carry out the
3 activities described in paragraphs (1), (2), and (4)
4 of subsection (f).

5 (3) ADMINISTRATOR OF THE ENVIRONMENTAL
6 PROTECTION AGENCY AND THE SECRETARIES OF AG-
7 RICULTURE AND COMMERCE.—The Administrator of
8 the Environmental Protection Agency, the Secretary
9 of Agriculture, and the Secretary of Commerce are
10 authorized to carry out the activities described in
11 subsection (f)(4).

12 (4) SECRETARY OF THE ARMY.—The Secretary
13 of the Army is authorized to carry out the activities
14 described in paragraphs (3) and (4) of subsection
15 (f).

16 (f) DESCRIPTION OF ACTIVITIES UNDER NEW AND
17 EXPANDED AUTHORIZATIONS.—

18 (1) CONVEYANCE.—Of the amounts authorized
19 to be appropriated under section 109, not more than
20 \$184,000,000 may be expended for the following:

21 (A) SAN LUIS RESERVOIR.—Funds may be
22 expended for feasibility studies, evaluation, and
23 implementation of the San Luis Reservoir
24 lowpoint improvement project, except that Fed-
25 eral participation in any construction of an ex-

1 panded Pacheco Reservoir shall be subject to
2 future congressional authorization.

3 (B) INTERTIE.—Funds may be expended
4 for feasibility studies and evaluation of in-
5 creased capacity of the intertie between the
6 State Water Project California Aqueduct and
7 the Central Valley Project Delta Mendota
8 Canal.

9 (C) FRANKS TRACT.—Funds may be ex-
10 pended for feasibility studies and actions at
11 Franks Tract to improve water quality in the
12 Delta.

13 (D) CLIFTON COURT FOREBAY AND THE
14 TRACY PUMPING PLANT.—Funds may be ex-
15 pended for feasibility studies and design of fish
16 screen and intake facilities at Clifton Court
17 Forebay and the Tracy Pumping Plant facili-
18 ties.

19 (E) DRINKING WATER INTAKE FACILI-
20 TIES.—

21 (i) IN GENERAL.—Funds may be ex-
22 pended for design and construction of the
23 relocation of drinking water intake facili-
24 ties to in-Delta water users.

1 (ii) DRINKING WATER QUALITY.—The
2 Secretary shall coordinate actions for relo-
3 cating intake facilities on a time schedule
4 consistent with subsection
5 (d)(2)(A)(i)(I)(bb) or take other actions
6 necessary to offset the degradation of
7 drinking water quality in the Delta due to
8 the South Delta Improvement Program.

9 (F) NEW MELONES RESERVOIR.—

10 (i) IN GENERAL.—In addition to the
11 other authorizations granted to the Sec-
12 retary by this title, the Secretary shall ac-
13 quire water from willing sellers and under-
14 take other actions designed to decrease re-
15 leases from the New Melones Reservoir for
16 meeting water quality standards and flow
17 objectives for which the Central Valley
18 Project has responsibility to assist in meet-
19 ing allocations to Central Valley Project
20 contractors from the New Melones Project.

21 (ii) PURPOSE.—The authorization
22 under this subparagraph is solely meant to
23 add flexibility for the Secretary to meet
24 any obligations of the Secretary to the
25 Central Valley Project contractors from the

1 New Melones Project by reducing demand
2 for water dedicated to meeting water qual-
3 ity standards in the San Joaquin River.

4 (iii) FUNDING.—Of the amounts au-
5 thORIZED to be appropriated under section
6 109, not more than \$30,000,000 may be
7 expended to carry out clause (i).

8 (G) RECIRCULATION OF EXPORT WATER.—
9 Funds may be used to conduct feasibility stud-
10 ies, evaluate, and, if feasible, implement the re-
11 circulation of export water to reduce salinity
12 and improve dissolved oxygen in the San Joa-
13 quin River.

14 (2) ENVIRONMENTAL WATER ACCOUNT.—

15 (A) IN GENERAL.—Of the amounts author-
16 ized to be appropriated under section 109, not
17 more than \$90,000,000 may be expended for
18 implementation of the Environmental Water
19 Account.

20 (B) NONREIMBURSABLE FEDERAL EX-
21 PENDITURE.—Expenditures under subpara-
22 graph (A) shall be considered a nonreimburs-
23 able Federal expenditure in recognition of the
24 payments of the contractors of the Central Val-
25 ley Project to the Restoration Fund created by

1 the Central Valley Project Improvement Act
2 (Title XXXIV of Public Law 102–575; 106
3 Stat. 4706).

4 (C) USE OF RESTORATION FUND.—

5 (i) IN GENERAL.—Of the amounts ap-
6 propriated for the Restoration Fund for
7 each fiscal year, an amount not to exceed
8 \$10,000,000 for any fiscal year may be
9 used to implement the Environmental
10 Water Account to the extent those actions
11 are consistent with the fish and wildlife
12 habitat restoration and improvement pur-
13 poses of the Central Valley Project Im-
14 provement Act.

15 (ii) ACCOUNTING.—Any such use of
16 the Restoration Fund shall count toward
17 the 33 percent of funds made available to
18 the Restoration Fund that, pursuant to
19 section 3407(a) of the Central Valley
20 Project Improvement Act, are otherwise
21 authorized to be appropriated to the Sec-
22 retary to carry out paragraphs (4) through
23 (6), (10) through (18), and (20) through
24 (22) of section 3406(b) of that Act.

1 (iii) FEDERAL FUNDING.—The
2 \$10,000,000 limitation on the use of the
3 Restoration Fund for the Environmental
4 Water Account under clause (i) does not
5 limit the appropriate amount of Federal
6 funding for the Environmental Water Ac-
7 count.

8 (3) LEVEE STABILITY.—

9 (A) IN GENERAL.—For purposes of imple-
10 menting the Calfed Bay-Delta Program within
11 the Delta (as defined in Cal. Water Code §
12 12220)), the Secretary of the Army is author-
13 ized to undertake the construction and imple-
14 mentation of levee stability programs or
15 projects for such purposes as flood control, eco-
16 system restoration, water supply, water convey-
17 ance, and water quality objectives.

18 (B) REPORT.—Not later than 180 days
19 after the date of enactment of this Act, the Sec-
20 retary of the Army shall submit to the appro-
21 priate authorizing and appropriating commit-
22 tees of the Senate and the House of Represent-
23 atives a report that describes the levee stability
24 reconstruction projects and priorities that will

1 be carried out under this title during each of
2 fiscal years 2005 through 2010.

3 (C) SMALL FLOOD CONTROL PROJECTS.—
4 Notwithstanding the project purpose, the au-
5 thority granted under section 205 of the Flood
6 Control Act of 1948 (33 U.S.C. 701s) shall
7 apply to each project authorized under this
8 paragraph.

9 (D) PROJECTS.—Of the amounts author-
10 ized to be appropriated under section 109, not
11 more than \$90,000,000 may be expended to—

12 (i) reconstruct Delta levees to a base
13 level of protection (also known as the
14 “Public Law 84–99 standard”);

15 (ii) enhance the stability of levees that
16 have particular importance in the system
17 through the Delta Levee Special Improve-
18 ment Projects Program;

19 (iii) develop best management prac-
20 tices to control and reverse land subsidence
21 on Delta islands;

22 (iv) develop a Delta Levee Emergency
23 Management and Response Plan that will
24 enhance the ability of Federal, State, and

1 local agencies to rapidly respond to levee
2 emergencies;

3 (v) develop a Delta Risk Management
4 Strategy after assessing the consequences
5 of Delta levee failure from floods, seepage,
6 subsidence, and earthquakes;

7 (vi) reconstruct Delta levees using, to
8 the maximum extent practicable, dredged
9 materials from the Sacramento River, the
10 San Joaquin River, and the San Francisco
11 Bay in reconstructing Delta levees;

12 (vii) coordinate Delta levee projects
13 with flood management, ecosystem restora-
14 tion, and levee protection projects of the
15 lower San Joaquin River and lower
16 Mokelumne River floodway improvements
17 and other projects under the Sacramento-
18 San Joaquin Comprehensive Study; and

19 (viii) evaluate and, if appropriate, re-
20 habilitate the Suisun Marsh levees.

21 (4) PROGRAM MANAGEMENT, OVERSIGHT, AND
22 COORDINATION.—

23 (A) IN GENERAL.—Of the amounts author-
24 ized to be appropriated under section 109, not
25 more than \$25,000,000 may be expended by

1 the Secretary or the other heads of Federal
2 agencies, either directly or through grants, con-
3 tracts, or cooperative agreements with agencies
4 of the State, for—

5 (i) Program support;

6 (ii) Program-wide tracking of sched-
7 ules, finances, and performance;

8 (iii) multiagency oversight and coordi-
9 nation of Program activities to ensure Pro-
10 gram balance and integration;

11 (iv) development of interagency cross-
12 cut budgets and a comprehensive finance
13 plan to allocate costs in accordance with
14 the beneficiary pays provisions of the
15 Record of Decision;

16 (v) coordination of public outreach
17 and involvement, including tribal, environ-
18 mental justice, and public advisory activi-
19 ties in accordance with the Federal Advi-
20 sory Committee Act (5 U.S.C. App.); and

21 (vi) development of Annual Reports.

22 (B) PROGRAM-WIDE ACTIVITIES.—Of the
23 amount referred to in subparagraph (A), not
24 less than 50 percent of the appropriated
25 amount shall be provided to the California Bay-

1 Delta Authority to carry out Program-wide
2 management, oversight, and coordination activi-
3 ties.

4 **SEC. 104. MANAGEMENT.**

5 (a) COORDINATION.—In carrying out the Calfed Bay-
6 Delta Program, the Federal agencies shall coordinate their
7 activities with the State agencies.

8 (b) PUBLIC PARTICIPATION.—In carrying out the
9 Calfed Bay-Delta Program, the Federal agencies shall co-
10 operate with local and tribal governments and the public
11 through an advisory committee established in accordance
12 with the Federal Advisory Committee Act (5 U.S.C. App.)
13 and other appropriate means, to seek input on Program
14 planning and design, technical assistance, and develop-
15 ment of peer review science programs.

16 (c) SCIENCE.—In carrying out the Calfed Bay-Delta
17 Program, the Federal agencies shall seek to ensure, to the
18 maximum extent practicable, that—

19 (1) all major aspects of implementing the Pro-
20 gram are subjected to credible and objective sci-
21 entific review; and

22 (2) major decisions are based upon the best
23 available scientific information.

24 (d) GOVERNANCE.—

1 (1) IN GENERAL.—In carrying out the Califed
2 Bay-Delta Program, the Secretary and the Federal
3 agency heads are authorized to participate as non-
4 voting members of the California Bay-Delta Author-
5 ity, as established in the California Bay-Delta Au-
6 thority Act (Cal. Water Code § 79400 et seq.), to the
7 extent consistent with Federal law, for the full dura-
8 tion of the period the Authority continues to be au-
9 thorized by State law.

10 (2) RELATIONSHIP TO FEDERAL LAW AND
11 AGENCIES.—Nothing in this subsection shall pre-
12 empt or otherwise affect any Federal law or limit
13 the statutory authority of any Federal agency.

14 (3) CALIFORNIA BAY-DELTA AUTHORITY.—

15 (A) ADVISORY COMMITTEE.—The Cali-
16 fornia Bay-Delta Authority shall not be consid-
17 ered an advisory committee within the meaning
18 of the Federal Advisory Committee Act (5
19 U.S.C. App.).

20 (B) FINANCIAL INTEREST.—The financial
21 interests of the California Bay-Delta Authority
22 shall not be imputed to any Federal official par-
23 ticipating in the Authority.

24 (C) ETHICS REQUIREMENTS.—A Federal
25 official participating in the California Bay-

1 Delta Authority shall remain subject to Federal
2 financial disclosure and conflict of interest laws
3 and shall not be subject to State financial dis-
4 closure and conflict of interest laws.

5 (e) ENVIRONMENTAL JUSTICE.—The Federal agen-
6 cies, consistent with Executive Order 12898 (59 Fed. Reg.
7 7629), should continue to collaborate with State agencies
8 to—

9 (1) develop a comprehensive environmental jus-
10 tice workplan for the Calfed Bay-Delta Program;
11 and

12 (2) fulfill the commitment to addressing envi-
13 ronmental justice challenges referred to in the
14 Calfed Bay-Delta Program Environmental Justice
15 Workplan, dated December 13, 2000.

16 (f) LAND ACQUISITION.—Federal funds appropriated
17 by Congress specifically for implementation of the Calfed
18 Bay-Delta Program may be used to acquire fee title to
19 land only where consistent with the Record of Decision.

20 **SEC. 105. REPORTING REQUIREMENTS.**

21 (a) REPORT.—

22 (1) IN GENERAL.—Not later than February 15
23 of each year, the Secretary, in cooperation with the
24 Governor, shall submit to the appropriate author-

1 izing and appropriating committees of the Senate
2 and the House of Representatives a report that—

3 (A) describes the status of implementation
4 of all components of the Calfed Bay-Delta Pro-
5 gram;

6 (B) sets forth any written determination
7 resulting from the review required under sub-
8 section (b) or section 103(d)(1)(B); and

9 (C) includes any revised schedule prepared
10 under subsection (b) or section
11 103(d)(1)(B)(iii)(II).

12 (2) CONTENTS.—The report required under
13 paragraph (1) shall describe—

14 (A) the progress of the Calfed Bay-Delta
15 Program in meeting the implementation sched-
16 ule for the Program in a manner consistent
17 with the Record of Decision;

18 (B) the status of implementation of all
19 components of the Program;

20 (C) expenditures in the past fiscal year for
21 implementing the Program;

22 (D) accomplishments during the past fiscal
23 year in achieving the objectives of additional
24 and improved—

25 (i) water storage;

- 1 (ii) water quality, including—
- 2 (I) the water quality targets de-
- 3 scribed in section 2.2.9 of the Record
- 4 of Decision; and
- 5 (II) any pending actions that
- 6 may affect the ability of the Calfed
- 7 Bay-Delta Program to achieve those
- 8 targets and requirements;
- 9 (iii) water use efficiency;
- 10 (iv) ecosystem restoration;
- 11 (v) watershed management;
- 12 (vi) levee system integrity;
- 13 (vii) water transfers;
- 14 (viii) water conveyance;
- 15 (ix) water supply reliability (including
- 16 new firm yield), including progress in
- 17 achieving the water supply targets de-
- 18 scribed in section 2.2.4 of the Record of
- 19 Decision and any pending actions that may
- 20 affect the ability of the Calfed Bay-Delta
- 21 Program to achieve those targets; and
- 22 (x) the uses and assets of the environ-
- 23 mental water account described in section
- 24 2.2.7 of the Record of Decision;

1 (E) Program goals, current schedules, and
2 relevant financing agreements, including fund-
3 ing levels necessary to achieve completion of the
4 feasibility studies and environmental docu-
5 mentation for the surface storage projects iden-
6 tified in section 103 by not later than Sep-
7 tember 30, 2008;

8 (F) progress on—

- 9 (i) storage projects;
- 10 (ii) conveyance improvements;
- 11 (iii) levee improvements;
- 12 (iv) water quality projects; and
- 13 (v) water use efficiency programs;

14 (G) completion of key projects and mile-
15 stones identified in the Ecosystem Restoration
16 Program, including progress on project effec-
17 tiveness, monitoring, and accomplishments;

18 (H) development and implementation of
19 local programs for watershed conservation and
20 restoration;

21 (I) progress in improving water supply reli-
22 ability and implementing the Environmental
23 Water Account;

24 (J) achievement of commitments under the
25 Endangered Species Act of 1973 (16 U.S.C.

1 1531 et seq.) and endangered species law of the
2 State;

3 (K) implementation of a comprehensive
4 science program;

5 (L) progress toward acquisition of the
6 Federal and State permits (including permits
7 under section 404(a) of the Federal Water Pol-
8 lution Control Act (33 U.S.C. 1344(a))) for im-
9 plementation of projects in all identified Pro-
10 gram areas;

11 (M) progress in achieving benefits in all
12 geographic regions covered by the Program;

13 (N) legislative action on—

- 14 (i) water transfer;
15 (ii) groundwater management;
16 (iii) water use efficiency; and
17 (iv) governance;

18 (O) the status of complementary actions;

19 (P) the status of mitigation measures; and

20 (Q) revisions to funding commitments and
21 Program responsibilities.

22 (b) ANNUAL REVIEW OF PROGRESS AND BAL-
23 ANCE.—

24 (1) IN GENERAL.—Not later than November 15
25 of each year, the Secretary, in cooperation with the

1 Governor, shall review progress in implementing the
2 Calfed Bay-Delta Program based on—

3 (A) consistency with the Record of Deci-
4 sion; and

5 (B) balance in achieving the goals and ob-
6 jectives of the Calfed Bay-Delta Program.

7 (2) REVISED SCHEDULE.—If, at the conclusion
8 of each such annual review or if a timely annual re-
9 view is not undertaken, the Secretary or the Gov-
10 ernor determines in writing that either the Program
11 implementation schedule has not been substantially
12 adhered to, or that balanced progress in achieving
13 the goals and objectives of the Program is not occur-
14 ring, the Secretary and the Governor, in coordina-
15 tion with the Bay-Delta Public Advisory Committee,
16 shall prepare a revised schedule to achieve balanced
17 progress in all Calfed Bay-Delta Program elements
18 consistent with the intent of the Record of Decision.

19 (c) FEASIBILITY STUDIES.—Any feasibility studies
20 completed as a result of this title shall include identifica-
21 tion of project benefits and a cost allocation plan con-
22 sistent with the beneficiaries pay provisions of the Record
23 of Decision.

1 **SEC. 106. CROSSCUT BUDGET.**

2 (a) IN GENERAL.—The President’s budget shall in-
3 clude such requests as the President considers necessary
4 and appropriate for the appropriate level of funding for
5 each of the Federal agencies to carry out its responsibil-
6 ities under the Calfed Bay-Delta Program.

7 (b) REQUESTS BY FEDERAL AGENCIES.—The funds
8 shall be requested for the Federal agency with authority
9 and programmatic responsibility for the obligation of the
10 funds, in accordance with subsections (b) through (f) of
11 section 103.

12 (c) REPORT.—Not later than 30 days after submis-
13 sion of the budget of the President to Congress, the Direc-
14 tor of the Office of Management and Budget, in coordina-
15 tion with the Governor, shall submit to the appropriate
16 authorizing and appropriating committees of the Senate
17 and the House of Representatives a financial report cer-
18 tified by the Secretary containing—

19 (1) an interagency budget crosscut report
20 that—

21 (A) displays the budget proposed, including
22 any interagency or intra-agency transfer, for
23 each of the Federal agencies to carry out the
24 Calfed Bay-Delta Program for the upcoming
25 fiscal year, separately showing funding re-
26 quested under both pre-existing authorities and

1 under the new authorities granted by this title;
2 and

3 (B) identifies all expenditures since 1998
4 by the Federal and State governments to
5 achieve the objectives of the Calfed Bay-Delta
6 Program;

7 (2) a detailed accounting of all funds received
8 and obligated by all Federal agencies and State
9 agencies responsible for implementing the Calfed
10 Bay-Delta Program during the previous fiscal year;

11 (3) a budget for the proposed projects (includ-
12 ing a description of the project, authorization level,
13 and project status) to be carried out in the upcom-
14 ing fiscal year with the Federal portion of funds for
15 activities under subsections (b) through (f) of sec-
16 tion 103; and

17 (4) a listing of all projects to be undertaken in
18 the upcoming fiscal year with the Federal portion of
19 funds for activities under subsections (b) through (f)
20 of section 103.

21 **SEC. 107. FEDERAL SHARE OF COSTS.**

22 (a) IN GENERAL.—The Federal share of the cost of
23 implementing the Calfed Bay-Delta Program for fiscal
24 years 2005 through 2010 in the aggregate, as set forth
25 in the Record of Decision, shall not exceed 33.3 percent.

1 (b) PAYMENT FOR BENEFITS.—The Secretary shall
2 ensure that all beneficiaries, including beneficiaries of en-
3 vironmental restoration and other Calfed program ele-
4 ments, shall pay for the benefit received from all projects
5 or activities carried out under the Calfed Bay-Delta Pro-
6 gram.

7 (c) INTEGRATED RESOURCE PLANNING.—Federal
8 expenditures for the Calfed Bay-Delta Program shall be
9 implemented in a manner that encourages integrated re-
10 source planning.

11 **SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.**

12 Nothing in this title—

13 (1) invalidates or preempts State water law or
14 an interstate compact governing water;

15 (2) alters the rights of any State to any appro-
16 priated share of the waters of any body of surface
17 or ground water;

18 (3) preempts or modifies any State or Federal
19 law or interstate compact governing water quality or
20 disposal;

21 (4) confers on any non-Federal entity the abil-
22 ity to exercise any Federal right to the waters of any
23 stream or to any ground water resource; or

1 (5) alters or modifies any provision of existing
2 Federal law, except as specifically provided in this
3 title.

4 **SEC. 109. AUTHORIZATION OF APPROPRIATION.**

5 There are authorized to be appropriated to the Sec-
6 retary and the heads of the Federal agencies to pay the
7 Federal share of the cost of carrying out the new and ex-
8 panded authorities described in subsections (e) and (f) of
9 section 103 \$389,000,000 for the period of fiscal years
10 2005 through 2010, to remain available until expended.

11 **TITLE II—MISCELLANEOUS**

12 **SEC. 201. SALTON SEA STUDY PROGRAM.**

13 Not later than December 31, 2006, the Secretary of
14 the Interior, in coordination with the State of California
15 and the Salton Sea Authority, shall complete a feasibility
16 study on a preferred alternative for Salton Sea restora-
17 tion.

18 **SEC. 202. ALDER CREEK WATER STORAGE AND CONSERVA-**
19 **TION PROJECT FEASIBILITY STUDY AND RE-**
20 **PORT.**

21 (a) STUDY.—Pursuant to Federal reclamation law
22 (the Act of June 17, 1902 (32 Stat. 388, chapter 1093),
23 and Acts supplemental to and amendatory of that Act (43
24 U.S.C. 371 et seq.)), the Secretary of the Interior (re-
25 ferred to in this section as the “Secretary”), through the

1 Bureau of Reclamation, and in consultation and coopera-
2 tion with the El Dorado Irrigation District, is authorized
3 to conduct a study to determine the feasibility of con-
4 structing a project on Alder Creek in El Dorado County,
5 California, to store water and provide water supplies dur-
6 ing dry and critically dry years for consumptive use, recre-
7 ation, in-stream flows, irrigation, and power production.

8 (b) REPORT.—

9 (1) TRANSMISSION.—On completion of the
10 study authorized by subsection (a), the Secretary
11 shall transmit to the Committee on Resources of the
12 House of Representatives and the Committee on En-
13 ergy and Natural Resources of the Senate a report
14 containing the results of the study.

15 (2) CONTENTS OF REPORT.—The report shall
16 contain appropriate cost sharing options for the im-
17 plementation of the project based on the use and
18 possible allocation of any stored water.

19 (3) USE OF AVAILABLE MATERIALS.—In devel-
20 oping the report under this section, the Secretary
21 shall use reports and any other relevant information
22 supplied by the El Dorado Irrigation District.

23 (c) COST SHARE.—

24 (1) FEDERAL SHARE.—The Federal share of
25 the costs of the feasibility study authorized by this

1 section shall not exceed 50 percent of the total cost
2 of the study.

3 (2) IN-KIND CONTRIBUTION FOR NON-FEDERAL
4 SHARE.—The Secretary may accept as part of the
5 non-Federal cost share the contribution such in-kind
6 services by the El Dorado Irrigation District as the
7 Secretary determines will contribute to the conduct
8 and completion of the study.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to carry out this section
11 \$3,000,000.

12 **SEC. 203. FOLSOM RESERVOIR TEMPERATURE CONTROL**
13 **DEVICE AUTHORIZATION.**

14 Section 1(e) of Public Law 105–295 (112 Stat. 2820)
15 (as amended by section 219(b) of Public Law 108–137
16 (117 Stat. 1853)) is amended in the second sentence by
17 striking “\$3,500,000” and inserting “\$6,250,000”.