

1 **Purpose: To provide a complete substitute.**

2
3 **Title: To authorize the Secretary of the Interior to implement water supply**
4 **technology and infrastructure programs aimed at increasing and diversifying**
5 **domestic water resources.**

6
7 **Sponsor(s): _____**
8
9

10
11
12 **Referred to the Committee on _____ and**
13 **ordered to be printed**

14 **Ordered to lie on the table and to be printed**

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

16 _____
17 **Viz:**

18 **Strike all after the enacting clause and insert the following:**

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

20 ~~This Act~~(a) **SHORT TITLE.—This Act may be cited as the “Water Supply,**
21 **Reliability, and Environmental Improvement Act”.**

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

23 **Sec.1.Short title; table of contents.**

24 **TITLE I—CALIFORNIA WATER SECURITY AND**
25 **ENVIRONMENTAL ENHANCEMENT**

26 **Sec.101.Short title.**

27 **Sec.102.Definitions.**

28 **Sec.103.Bay Delta program.**

29 **Sec.104.Management.**

30 **Sec.105.Reporting requirements.**

31 **Sec.106.Crosscut budget.**

32 **Sec.107.Federal share of costs.**

33 **Sec.108.Compliance with State and Federal law.**

34 **Sec.109.Authorization of appropriation.**

1 **TITLE II—MISCELLANEOUS**

2 **Sec.201.Salton Sea study program.**

3 **Sec.202.Alder Creek water storage and conservation project feasibility study and**
4 **report.**

5 **Sec.203.Folsom Reservoir temperature control device authorization.**

6 **TITLE I—CALIFORNIA WATER SECURITY AND**
7 **ENVIRONMENTAL ENHANCEMENT**

8 **SEC. 101. SHORT TITLE.**

9 **This title** may be cited as the “Calfed Bay-Delta Authorization Act”.

10 **SEC. 2 102. DEFINITIONS.**

11 In this ~~Act~~ **title**:

12 (1) CALFED BAY-DELTA PROGRAM.—The terms “Calfed Bay-Delta Program” and
13 “Program” mean the programs, projects, complementary actions, and activities
14 undertaken through coordinated planning, implementation, and assessment activities
15 of the State agencies and Federal agencies as set forth in the Record of Decision ~~and~~
16 ~~the California Bay-Delta Authority Act (Cal. Water Code 79400 et seq.).~~

17 (2) CALIFORNIA BAY-DELTA AUTHORITY.—The terms “California Bay-Delta
18 Authority” and “Authority” mean the California Bay-Delta Authority, as set forth in
19 the California Bay-Delta Authority Act (Cal. Water Code 79400 et seq.).

20 (3) DELTA.—**The term “Delta” has the meaning given the term in the Record**
21 **of Decision.**

22 (4) ENVIRONMENTAL WATER ACCOUNT.—The term “Environmental Water
23 Account” means the Cooperative Management Program established under the
24 Record of Decision ~~to provide water, in addition to the quantity of the regulatory~~
25 ~~baseline, to protect and restore Delta fisheries.-.~~

26 ~~(4)~~(5) FEDERAL AGENCIES.—The term “Federal agencies” means—

27 (A) the Department of the Interior, including—

28 (i) the Bureau of Reclamation;

29 (ii) the United States Fish and Wildlife Service;

30 (iii) the Bureau of Land Management; and

31 (iv) the United States Geological Survey;

32 (B) the Environmental Protection Agency;

33 (C) the Army Corps of Engineers;

34 (D) the Department of Commerce, including the National Marine Fisheries
35 Service (also known as “NOAA Fisheries”);

1 (E) the Department of Agriculture, including—

2 (i) the Natural Resources Conservation Service; and

3 (ii) the Forest Service; and

4 (F) the Western Area Power Administration.

5 **(6) FIRM YIELD.—The term “firm yield” means a quantity of water from a**
6 **project or program that is projected to be available on a reliable basis, given a**
7 **specified level of risk, during a critically dry period.**

8 ~~(7)(5)~~ GOVERNOR.—The term “Governor” means the Governor of the State of
9 California.

10 ~~(6)(8)~~ RECORD OF DECISION.—The term “Record of Decision” means the Calfed
11 Bay-Delta Program Record of Decision, dated August 28, 2000.

12 ~~(7)(9)~~ SECRETARY.—The term “Secretary” means the Secretary of the Interior.

13 ~~(8)(10)~~ STATE.—The term “State” means the State of California.

14 ~~(9)(11)~~ STATE AGENCIES.—The term “State agencies” means—

15 (A) the Resources Agency of California, including—

16 (i) the Department of Water Resources;

17 (ii) the Department of Fish and Game;

18 (iii) the Reclamation Board;

19 (iv) the Delta Protection Commission;

20 (v) the Department of Conservation;

21 (vi) the San Francisco Bay Conservation and Development
22 Commission;

23 (vii) the Department of Parks and Recreation; and

24 (viii) the California Bay-Delta Authority;

25 (B) the California Environmental Protection Agency, including the State
26 Water Resources Control Board;

27 (C) the California Department of Food and Agriculture; and

28 (D) the Department of Health Services.

29 **SEC. 3 103. BAY DELTA PROGRAM.**

30 (a) IN GENERAL.—

31 (1) RECORD OF DECISION AS GENERAL FRAMEWORK.—The Record of Decision is
32 approved as a **general** framework for addressing the Calfed Bay-Delta Program,
33 including its components relating to water storage, ecosystem restoration, water
34 supply reliability (**including new firm yield**), conveyance, water use efficiency,
35 water quality, water transfers, watersheds, the Environmental Water Account, levee
36 stability, governance, and science.

1 (2) ~~REQUIREMENTS.~~—**THE REQUIREMENTS.**—

2 **(A) IN GENERAL.**—The Secretary and the heads of the Federal agencies are
3 authorized to ~~carry out~~ **carry out** the activities described in ~~subsection (b)~~
4 ~~subject to~~— **subsections (c) through (f) consistent with**—

5 ~~(A) the constraints of~~**(i)** the Record of Decision;
6 and

7 ~~(B)~~**(ii)** the ~~requirements~~ **requirement** that Program activities consisting
8 of protecting drinking water quality, restoring ecological health,
9 improving water supply reliability (including additional storage ~~and~~
10 ~~conveyance~~), **conveyance, and new firm yield**), and protecting Delta
11 levees will progress in a balanced manner; **and** -

12 ~~(b) Authorized Activities.~~—**(iii) this title.**

13 ~~(1) In general.~~—**(B) MULTIPLE BENEFITS.**—**In selecting activities and**
14 **projects, the Secretary and the heads of the Federal agencies shall consider**
15 **whether the activities and projects have multiple benefits.**

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

21 ~~(A)~~**(1)** subject to environmental review and approval, as required under applicable
22 Federal and State law; and

23 ~~(B)~~**(2)** approved and certified by the relevant Federal agency, following
24 consultation and coordination with the ~~California Bay-Delta Authority~~ **Governor**, to
25 be consistent with the Record of Decision.

26 ~~(2)(c) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.~~—**FEDERAL**
27 **AGENCIES UNDER APPLICABLE LAW.**—

28 ~~(A)~~**(1) SECRETARY OF THE INTERIOR.**—The Secretary of the Interior is authorized
29 to carry out the activities described in ~~subparagraphs (A)~~ **paragraphs (1)** through
30 ~~(J)~~**(10)** of ~~paragraph (3)~~ **subsection (d)**, to the extent authorized under the
31 reclamation laws, the Central Valley Project Improvement Act (title XXXIV of
32 Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16
33 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
34 and other applicable law.

35 ~~(B)~~**(2) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.**—The
36 Administrator of the Environmental Protection Agency is authorized to carry out the
37 activities described in ~~subparagraphs (C), (E), (F), (G), (H), and (I) of paragraph (3)~~
38 **paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d)**, to the extent authorized
39 under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe
40 Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

41 ~~(C)~~**(3) SECRETARY OF THE ARMY.**—The Secretary of the Army is authorized to

1 carry out the activities described in ~~subparagraphs (A), (B), (F), (G), (H), and (I) of~~
2 ~~paragraph (3)~~ **paragraphs (1), (2), (6), (7), (8), and (9) of subsection (d)**, to the
3 extent authorized under flood control, water resource development, and other
4 applicable law.

5 ~~(D)~~**(4) SECRETARY OF COMMERCE.**—The Secretary of Commerce is authorized to
6 carry out the activities described in ~~subparagraphs (B), (F), (G), and (I) of paragraph~~
7 ~~(3)~~ **paragraphs (2), (6), (7), and (9) of subsection (d)**, to the extent authorized
8 under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the
9 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

10 ~~(E)~~**(5) SECRETARY OF AGRICULTURE.**—The Secretary of Agriculture is authorized
11 to carry out the activities described in ~~subparagraphs (C), (E), (F), (G), (H), and (I)~~
12 ~~of paragraph (3)~~ **paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d)**, to the
13 extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801
14 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107-171;
15 116 Stat. 134) (including amendments made by that Act), and other applicable law.

16 ~~(3) Description of activities under applicable law.~~—**(d) DESCRIPTION OF ACTIVITIES**
17 **UNDER APPLICABLE LAW.**—

18 ~~(A) Water storage.~~—~~Activities under this subparagraph~~**(1) WATER STORAGE.**—

19 **(A) IN GENERAL.**—**Activities under this paragraph** consist of—

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

22 (I) the Shasta Dam in Shasta County; and

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

24 (ii) planning and feasibility studies for the following projects requiring
25 further consideration—

26 (I) the Sites Reservoir in Colusa County; and

27 (II) the Upper San Joaquin River storage in Fresno and Madera
28 Counties;

29 (iii) developing and implementing groundwater management and
30 groundwater storage projects; and

31 (iv) comprehensive water management planning.

32 ~~(B) CONVEYANCE.~~—**STORAGE PROJECT AUTHORIZATION AND BALANCED**
33 **CALFED IMPLEMENTATION.**—

34 ~~(i) South delta actions.~~—**(i) IN GENERAL.**—**If on completion of the**
35 **feasibility study for a project described in clause (i) or (ii) of**
36 **subparagraph (A), the Secretary, in consultation with the Governor,**
37 **determines that the project should be constructed in whole or in part**
38 **with Federal funds, the Secretary shall submit the feasibility study to**
39 **Congress.**

40 **(ii) FINDING OF IMBALANCE.**—**If Congress fails to authorize**

1 construction of the project by the end of the next full session following
2 the submission of the feasibility study, the Secretary, in consultation
3 with the Governor, shall prepare a written determination making a
4 finding of imbalance for the Calfed Bay-Delta Program.

5 (iii) REPORT ON REBALANCING.—

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

12 (II) SCHEDULES AND ALTERNATIVES.—The report shall include
13 preparation of revised schedules and identification of alternatives
14 to rebalance the Program, including resubmission of the project
15 to Congress with or without modification, construction of other
16 projects, and construction of other projects that provide
17 equivalent water supply and other benefits at equal or lesser cost.

18 (C) WATER SUPPLY AND YIELD STUDY.—

19 (i) IN GENERAL.—The Secretary, acting through the Bureau of
20 Reclamation and in coordination with the State, shall conduct a study
21 of available water supplies and existing and future needs for water—

22 (I) within the units of the Central Valley Project;

23 (II) within the area served by Central Valley Project
24 agricultural, municipal, and industrial water service contractors;
25 and

26 (III) within the Calfed Delta solution area.

27 (ii) RELATIONSHIP TO PRIOR STUDY.—In conducting the study, the
28 Secretary shall incorporate and revise, as necessary, the results of the
29 study required by section 3408(j) of the Central Valley Project
30 Improvement Act of 1992 (Public Law 102–575; 106 Stat. 4730).

31 (iii) REPORT.—Not later than 1 year after the date of enactment of
32 this Act, the Secretary shall submit to the appropriate authorizing
33 and appropriating committees of the Senate and the House of
34 Representatives a report describing the results of the study,
35 including—

36 (I) new firm yield and water supply improvements, if any, for
37 Central Valley Project agricultural water service contractors and
38 municipal and industrial water service contractors, including
39 those identified in Bulletin 160;

40 (II) all water management actions or projects, including those
41 identified in Bulletin 160, that would—

- 1 (aa) improve firm yield or water supply; and
2 (bb) if taken or constructed, balance available water
3 supplies and existing demand with due recognition of water
4 right priorities and environmental needs;
5 (III) the financial costs of the actions and projects described
6 under subclause (II); and
7 (IV) the beneficiaries of those actions and projects and an
8 assessment of the willingness of the beneficiaries to pay the
9 capital costs and operation and maintenance costs of the actions
10 and projects.

11 (D) MANAGEMENT.—The Secretary shall conduct activities related to
12 developing groundwater storage projects to the extent authorized under
13 law.

14 (E) COMPREHENSIVE WATER PLANNING.—The Secretary shall conduct
15 activities related to comprehensive water management planning to the
16 extent authorized under law.

17 (2) CONVEYANCE.—

18 (A) SOUTH DELTA ACTIONS.—

19 (i) IN GENERAL.—In the case of the South Delta, activities under this
20 clause **subparagraph** consist of—

21 (I) the South Delta Improvements Program through actions to—

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

23 (bb) install permanent, operable barriers in the ~~south Delta~~;
24 **South Delta, under which Federal agencies shall cooperate**
25 **with the State to accelerate installation of the permanent,**
26 **operable barriers in the South Delta, with an intent to**
27 **complete that installation not later than September 30, 2007;**

28 ~~(cc) design and construct~~(cc) **evaluate, consistent with the**
29 **Record of Decision**, fish screens and intake facilities at the
30 Tracy Pumping Plant facilities; and

31 (dd) increase the State Water Project export to the maximum
32 capability of 10,300 cfs;

33 (II) reduction of agricultural drainage in ~~south~~ **South** Delta
34 channels, and other actions necessary to minimize the impact of
35 drainage on drinking water quality;

36 (III) ~~design and construction~~ **evaluation** of lower San Joaquin
37 River floodway improvements;

38 (IV) installation and operation of temporary barriers in the ~~south~~
39 **South** Delta until fully operable barriers are constructed; **and**

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

3 ~~(VI) actions identified in subclause (I) or other actions necessary to~~
4 ~~offset the degradation of drinking water quality or~~ **(ii) ACTIONS TO**
5 **INCREASE PUMPING.—Actions to increase pumping shall be**
6 **accomplished in a manner consistent with the Record of Decision**
7 **requirement to avoid redirected impacts and** adverse impacts to fishery
8 protection in the Delta due to the South Delta Improvements Program ~~and~~
9 **with any applicable Federal or State law that protects—**

10 ~~(ii)(I)~~ **(I) water diversions and use (including avoidance of**
11 **increased costs of diversion) by in-Delta water users (including**
12 **in-Delta agricultural users that have historically relied on water**
13 **diverted for use in the Delta);**

14 **(II) water quality for municipal, industrial, agricultural, and**
15 **other uses; and**

16 **(III) water supplies for areas of origin.**

17 **(B) NORTH DELTA ACTIONS.—**In the case of the North Delta, activities under
18 this clause **subparagraph** consist of—

19 ~~(H)(i)~~ **(i)** evaluation and implementation of improved operational
20 procedures for the Delta Cross Channel to address fishery and water
21 quality concerns;

22 ~~(H)(ii)~~ **(ii)** evaluation of a screened through-Delta facility on the
23 Sacramento River; and

24 ~~(H) design and construction~~ **(iii) evaluation** of lower Mokelumne River
25 floodway improvements.

26 ~~(iii)(C)~~ **(C) INTERTIES.—**Activities under this clause **subparagraph** consist of—

27 ~~(H)(i)~~ **(i)** evaluation and construction of an intertie between the State Water
28 Project California Aqueduct and the Central Valley Project Delta Mendota
29 Canal, near the City of Tracy; ~~and~~, **as an operation and maintenance**
30 **activity, except that the Secretary shall design and construct the**
31 **intertie in a manner consistent with a possible future expansion of the**
32 **intertie capacity (as described in subsection (f)(1)(B)); and**

33 ~~(H)(ii)~~ **(ii)** assessment of a connection of the Central Valley Project to the
34 Clifton Court Forebay of the State Water Project, with a corresponding
35 increase in the screened intake of the Forebay.

36 **(D) PROGRAM TO MEET STANDARDS.—**

37 **(i) IN GENERAL.—**Prior to increasing export limits from the Delta
38 for the purposes of conveying water to south-of-Delta Central Valley
39 Project contractors or increasing deliveries through an intertie, the
40 Secretary shall, not later than 1 year after the date of enactment of
41 this Act, in consultation with the Governor, develop and initiate

1 implementation of a program to meet all existing water quality
2 standards and objectives for which the Central Valley Project has
3 responsibility.

4 (ii) MEASURES.—In developing and implementing the program, the
5 Secretary shall include, to the maximum extent feasible, the measures
6 described in clauses (iii) through (vii).

7 (iii) RECIRCULATION PROGRAM.—The Secretary shall incorporate
8 into the program a recirculation program to provide flow, reduce
9 salinity concentrations in the San Joaquin River, and reduce the
10 reliance on the New Melones Reservoir for meeting water quality and
11 fishery flow objectives through the use of excess capacity in export
12 pumping and conveyance facilities.

13 (iv) BEST MANAGEMENT PRACTICES PLAN.—

14 (I) IN GENERAL.—The Secretary shall develop and implement,
15 in coordination with the State’s programs to improve water
16 quality in the San Joaquin River, a best management practices
17 plan to reduce the water quality impacts of the discharges from
18 wildlife refuges that receive water from the Federal Government
19 and discharge salt or other constituents into the San Joaquin
20 River.

21 (II) COORDINATION WITH INTERESTED PARTIES.—The plan shall
22 be developed in coordination with interested parties in the San
23 Joaquin Valley and the Delta.

24 (III) COORDINATION WITH ENTITIES THAT DISCHARGE WATER.—
25 The Secretary shall also coordinate activities under this clause
26 with other entities that discharge water into the San Joaquin
27 River to reduce salinity concentrations discharged into the River,
28 including the timing of discharges to optimize their assimilation.

29 (v) ACQUISITION OF WATER.—The Secretary shall incorporate into
30 the program the acquisition from willing sellers of water from streams
31 tributary to the San Joaquin River or other sources to provide flow,
32 dilute discharges of salt or other constituents, and to improve water
33 quality in the San Joaquin River below the confluence of the Merced
34 and San Joaquin Rivers, and to reduce the reliance on New Melones
35 Reservoir for meeting water quality and fishery flow objectives.

36 (vi) PURPOSE.—The purpose of the authority and direction
37 provided to the Secretary ~~(C) Water use efficiency.~~—Activities under
38 this subparagraph consist of—is to provide greater flexibility in
39 meeting the existing water quality standards and objectives for which
40 the Central Valley Project has responsibility so as to reduce the
41 demand on water from New Melones Reservoir used for that purpose
42 and to assist the Secretary in meeting any obligations to Central
43 Valley Project contractors from the New Melones Project.

1 ~~(i)~~(vii) **UPDATING OF NEW MELONES OPERATING PLAN.—The**
2 **Secretary shall update the New Melones operating plan to take into**
3 **account, among other things, the actions described in this title that are**
4 **designed to reduce the reliance on New Melones Reservoir for meeting**
5 **water quality and fishery flow objectives, and to ensure that actions to**
6 **enhance fisheries in the Stanislaus River are based on the best**
7 **available science.**

8 **(3) WATER USE EFFICIENCY.—**

9 **(A) WATER CONSERVATION PROJECTS.—Activities under this paragraph**
10 **include water conservation projects that provide water supply reliability, water**
11 **quality, and ecosystem benefits to the California Bay-Delta system;.**

12 ~~(ii)~~**(B) TECHNICAL ASSISTANCE.—Activities under this paragraph include**
13 **technical assistance for urban and agricultural water conservation projects;.**

14 ~~(iii)~~**(C) WATER RECYCLING AND DESALINATION PROJECTS.—Activities**
15 **under this paragraph include water recycling and desalination projects,**
16 **including groundwater remediation projects and projects identified in the**
17 **Bay Area Water Plan and the Southern California Comprehensive Water**
18 **Reclamation and Reuse Study and other projects, giving priority to projects that**
19 **include regional solutions to benefit regional water supply and reliability needs;**
20 **.**

21 ~~(iv)~~**(D) WATER MEASUREMENT AND TRANSFER ACTIONS.—Activities**
22 **under this paragraph include water measurement and transfer actions; and.**

23 ~~(v) certification of~~**(E) URBAN WATER CONSERVATION.—Activities under**
24 **this paragraph include implementation of best management practices for**
25 **urban water conservation.**

26 **(F) RECLAMATION AND RECYCLING PROJECTS.—**

27 **(i) PROJECTS.—This subparagraph applies to—**

28 **(I) projects identified in the Southern California**
29 **Comprehensive Water Reclamation and Reuse Study, dated**
30 **April 2001 and authorized by section 1606 of the Reclamation**
31 **Wastewater and Groundwater Study and Facilities Act (43**
32 **U.S.C. 390h–4); and**

33 **(II) projects identified in the San Francisco Bay Area Regional**
34 **Water Recycling Program described in the San Francisco Bay**
35 **Area Regional Water Recycling Program Recycled Water Master**
36 **Plan, dated December 1999 and authorized by section 1611 of the**
37 **Reclamation Wastewater and Groundwater Study and Facilities**
38 **Act (43 U.S.C. 390h–9).**

39 **(ii) DEADLINE.—Not later than 180 days after the date of enactment**
40 **of this Act, the Secretary shall—**

41 **(I) complete the review of the existing studies of the projects**

1 described in clause (i); and

2 (II) make the feasibility determinations described in clause
3 (iii).

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

7 (I) in consultation with the affected local sponsoring agency
8 and the State, that the existing planning and environmental
9 studies for the project (together with supporting materials and
10 documentation) have been prepared consistent with Bureau of
11 Reclamation procedures for projects under consideration for
12 financial assistance under the Reclamation Wastewater and
13 Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.);
14 and

15 (II) that the planning and environmental studies for the project
16 (together with supporting materials and documentation)
17 demonstrate that the project will contribute to the goals of
18 improving water supply reliability in the Calfed solution area or
19 the Colorado River Basin within the State and otherwise meets
20 the requirements of section 1604 of the Reclamation Wastewater
21 and Groundwater Study and Facilities Act (43 U.S.C. 390h–2).

22 (iv) REPORT.—Not later than 90 days after the date of completion of
23 a feasibility study or the review of a feasibility study ~~(D) Water~~
24 ~~transfers.~~—Activities under this subparagraph consist of—, the Secretary
25 shall submit to the appropriate authorizing and appropriating
26 committees of the Senate and the House of Representatives a report
27 describing the results of the study or review.

28 ~~(i)~~(4) WATER TRANSFERS.—Activities under this paragraph consist of—

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

30 ~~(ii)~~(B) lowering transaction costs through permit streamlining; and

31 ~~(iii)~~(C) maintaining a water transfer information clearinghouse.

32 ~~(E)~~(5) INTEGRATED REGIONAL WATER MANAGEMENT PLANS.—Activities under
33 this subparagraph **paragraph** consist of assisting local and regional communities in
34 the State in developing and implementing integrated regional water management
35 plans to carry out projects and programs that improve water supply reliability, water
36 quality, ecosystem restoration, and flood protection, or meet other local and regional
37 needs, in a manner that is consistent with, and makes a significant contribution to,
38 the Calfed Bay-Delta Program.

39 ~~(F)~~(6) ECOSYSTEM RESTORATION.—ACTIVITIES RESTORATION.—

40 (A) IN GENERAL.—Activities under this subparagraph **paragraph** consist
41 of—

1 (i) implementation of large-scale restoration projects in San Francisco
2 Bay and the Delta and its tributaries;

3 (ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay
4 and Marsh, including tidal wetland and riparian habitat;

5 (iii) fish screen and fish passage improvement projects, **including the**
6 **Sacramento River Small Diversion Fish Screen Program**;

7 (iv) implementation of an invasive species program, including
8 prevention, control, and eradication;

9 (v) development and integration of Federal and State agricultural
10 programs that benefit wildlife into the Ecosystem Restoration Program;

11 (vi) financial and technical support for locally-based collaborative
12 programs to restore habitat while addressing the concerns of local
13 communities;

14 (vii) water quality improvement projects to **manage or** reduce
15 **concentrations of** salinity, selenium, mercury, pesticides, trace metals,
16 dissolved oxygen, turbidity, sediment, and other pollutants;

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

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

21 (x) scientific evaluations and targeted research on Program activities;
22 and

23 (xi) strategic planning and tracking of Program performance.

24 **(B) REPORTING REQUIREMENTS.—The Secretary or the head of the**
25 **relevant Federal agency (as appropriate under clause (ii)) shall provide to**
26 **the appropriate authorizing committees of the Senate and the House of**
27 **Representatives and other appropriate parties in accordance with this**
28 **subparagraph—**

29 **(i) an annual ecosystem program plan report in accordance with**
30 **subparagraph (C); and**

31 **(ii) detailed project reports in accordance with subparagraph (D).**

32 **(C) ANNUAL ECOSYSTEM PROGRAM PLAN.—**

33 **(i) IN GENERAL.—Not later than October 1 of each year, with**
34 **respect to each ecosystem restoration action carried out using Federal**
35 **funds under this title, the Secretary, in consultation with the**
36 **Governor, shall submit to the appropriate authorizing committees of**
37 **the Senate and the House of Representatives an annual ecosystem**
38 **program plan report.**

39 **(ii) PURPOSES.—The purposes of the report are—**

1 (I) to describe the projects and programs to implement this
2 subsection in the following fiscal year; and

3 (II) to establish priorities for funding the projects and
4 programs for subsequent fiscal years.

5 (iii) CONTENTS.—The report shall describe—

6 (I) the goals and objectives of the programs and projects;

7 (II) program accomplishments;

8 (III) major activities of the programs;

9 (IV) the Federal agencies involved in each project or program
10 identified in the plan and the cost-share arrangements with
11 cooperating agencies;

12 (V) the resource data and ecological monitoring data to be
13 collected for the restoration projects and how the data are to be
14 integrated, streamlined, and designed to measure the
15 effectiveness and overall trend of ecosystem health in the Bay-
16 Delta watershed;

17 (VI) implementation schedules and budgets;

18 (VII) existing monitoring programs and performance
19 measures;

20 (VIII) the status and effectiveness of measures to minimize the
21 impacts of the program on agricultural land; and

22 (IX) a description of expected benefits of the restoration
23 program relative to the cost.

24 (iv) SPECIAL RULE FOR LAND ACQUISITION USING FEDERAL FUNDS.—
25 For each ecosystem restoration project involving land acquisition
26 using Federal funds under this title, the Secretary shall—

27 (I) identify the specific parcels to be acquired in the annual
28 ecosystem program plan report(G) Watersheds.—Activities under
29 this subparagraph consist of—; or

30 (II) not later than 150 days before the project is approved,
31 provide to the appropriate authorizing committees of the Senate
32 and the House of Representatives, the United States Senators
33 from the State, and the United States Representative whose
34 district would be affected, notice of any such proposed land
35 acquisition using Federal funds under this title submitted to the
36 Federal or State agency.

37 (D) DETAILED PROJECT REPORTS.—

38 (i) IN GENERAL.—In the case of each ecosystem restoration program
39 or project funded under this title that is not specifically identified in
40 an annual ecosystem program plan under subparagraph (C), not later

1 than 45 days prior to approval, the Secretary, in coordination with the
2 State, shall submit to the appropriate authorizing committees of the
3 Senate and the House of Representatives recommendations on the
4 proposed program or project.

5 (ii) CONTENTS.—The recommendations shall—

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

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

12 (III) describe the monitoring plans and performance measures
13 that will be used for evaluating the performance of the proposed
14 program or project;

15 (IV) identify any cost-sharing arrangements with cooperating
16 entities;

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

20 (VI) in the case of any program or project involving the
21 acquisition of private land using Federal funds under this title—

22 (aa) describe the process and timing of notification of
23 interested members of the public and local governments;

24 (bb) describe the measures taken to minimize impacts on
25 agricultural land pursuant to the Record of Decision; and

26 (cc) include preliminary management plans for all
27 properties to be acquired with Federal funds, including an
28 overview of existing conditions (including habitat types in
29 the affected project area), the expected ecological benefits,
30 preliminary cost estimates, and implementation schedules.

31 (7) WATERSHEDS.—Activities under this paragraph consist of—

32 (A) building local capacity to assess and manage watersheds affecting the
33 Califed Bay-Delta system;

34 ~~(ii)~~(B) technical assistance for watershed assessments and management
35 plans; and

36 ~~(iii)~~(C) developing and implementing locally-based watershed conservation,
37 maintenance, and restoration actions.

38 ~~(H)~~(8) WATER QUALITY.—Activities under this ~~subparagraph~~ **paragraph** consist
39 of—

40 ~~(i)~~(A) addressing drainage problems in the San Joaquin Valley to improve

1 downstream water quality (including habitat restoration projects that ~~reduce~~
2 ~~drainage and~~ improve water quality) if—

3 ~~(i)~~**(i)** a plan is in place for monitoring downstream water quality
4 improvements; and

5 ~~(ii)~~**(ii)** State and local agencies are consulted on the activities to be
6 funded;

7 except that no right, benefit, or privilege is created as a result of this ~~clause~~;
8 **subparagraph;**

9 ~~(ii)~~**(B)** implementation of source control programs in the Delta and its
10 tributaries;

11 ~~(iii)~~**(C)** developing recommendations through scientific panels and advisory
12 council processes to meet the Calfed Bay-Delta Program goal of continuous
13 improvement in Delta water quality for all uses;

14 ~~(iv)~~**(D)** investing in treatment technology demonstration projects;

15 ~~(v)~~**(E)** controlling runoff into the California aqueduct, the Delta-Mendota
16 Canal, and other similar conveyances;

17 ~~(vi)~~**(F)** addressing water quality problems at the North Bay Aqueduct;

18 ~~(vii)~~**(G)** supporting and participating in the development of projects to enable
19 San Francisco Bay Area water districts, **and water entities in San Joaquin**
20 **and Sacramento Counties**, to work cooperatively to address their water
21 quality and supply reliability issues, including—

22 ~~(i)~~**(i)** connections between aqueducts, water transfers, water
23 conservation measures, institutional arrangements, and infrastructure
24 improvements that encourage regional approaches; and

25 ~~(ii)~~**(ii)** investigations and studies of available capacity in a project to
26 deliver water to the East Bay Municipal Utility District under its contract
27 with the Bureau of Reclamation, dated July 20, 2001, in order to
28 determine if such capacity can be utilized to meet the objectives of this
29 ~~clause~~; **subparagraph;**

30 ~~(viii)~~**(H)** development of water quality exchanges and other programs to
31 make high quality water available for urban and other users;

32 ~~and~~

33 ~~(ix)~~**(I)** development and implementation of a plan to meet all **Delta** water
34 quality standards for which the Federal and State water projects have
35 responsibility;

36 ~~(j)~~**(J)** development of recommendations through science panels and
37 advisory council processes to meet the Calfed Bay-Delta Program goal of
38 continuous improvement in water quality for all uses; and

39 **(K)** projects that are consistent with the framework of the water quality
40 component of the Calfed Bay-Delta Program.

1 (9) SCIENCE.—Activities under this ~~subparagraph~~ **paragraph** consist of—

2 ~~(i)~~ **(A) supporting establishment and**
3 **maintenance of** an independent science board, technical panels, and standing
4 boards to provide oversight and peer review of the Program;

5 ~~(ii)~~ **(B)** conducting expert evaluations and scientific assessments of all
6 Program elements;

7 ~~(iii)~~ **(C)** coordinating existing monitoring and scientific research programs;

8 ~~(iv)~~ **(D)** developing and implementing adaptive management experiments to
9 test, refine, and improve scientific understandings;

10 ~~(v)~~ **(E)** establishing performance measures, and monitoring and evaluating
11 the performance of all Program elements; and

12 ~~(vi)~~ **(F)** preparing an annual science report.

13 ~~(J)~~ **(10) DIVERSIFICATION OF WATER SUPPLIES.**—Activities under this ~~subparagraph~~
14 **paragraph** consist of actions ~~to~~ to—

15 ~~(i)~~ diversify sources of level 2 refuge supplies and modes of delivery to refuges ;
16 **and while maintaining the diversity of level 4 supplies pursuant to section**
17 **3406(d)(2) of the Central Valley Project Improvement Act (Public Law 102–**
18 **575; 106 Stat. 4723).**

19 ~~(ii)~~ acquire additional water for level 4 refuge supplies. **(e) NEW AND EXPANDED**
20 **AUTHORIZATIONS FOR FEDERAL AGENCIES.**—

21 ~~(4)~~ **New and expanded authorizations for federal agencies.**—

22 ~~(A)~~ **(1) IN GENERAL.**—The heads of the Federal agencies described in this
23 **paragraph subsection** are authorized to carry out the activities described in
24 ~~paragraph (5)~~ **subsection (f)** during each of fiscal years 2005 through 2010, in
25 coordination with the ~~Bay-Delta Authority.~~ **Governor.**

26 ~~(B)~~ **(2) SECRETARY OF THE INTERIOR.**—The Secretary of the Interior is authorized
27 to carry out the activities described in ~~subparagraphs (A), (B), and (D) of paragraph~~
28 ~~(5)-~~ **paragraphs (1), (2), and (4) of subsection (f).**

29 ~~(C)~~ **(3) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE**
30 **SECRETARIES OF AGRICULTURE AND COMMERCE.**—The Administrator of the
31 Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of
32 Commerce are authorized to carry out the activities described in ~~paragraph (5)(D).~~
33 **subsection (f)(4).**

34 ~~(D)~~ **(4) SECRETARY OF THE ARMY.**—The Secretary of the Army is authorized to
35 carry out the activities described in ~~subparagraph (C) and (D) of paragraph (5).~~
36 **paragraphs (3) and (4) of subsection (f).**

37 ~~(5) Description of activities under new and expanded authorizations.~~ **(f)**
38 **DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.**—

39 ~~(A)~~ **(1) CONVEYANCE.**—Of the amounts authorized to be appropriated under
40 section § 109, not more than \$184,000,000 may be expended ~~for~~ **for the**

1 following:

2 ~~(i)~~**(A) SAN LUIS RESERVOIR.—Funds may be expended for** feasibility
3 studies, evaluation, and implementation of the San Luis Reservoir lowpoint
4 improvement project, except that Federal participation in any ~~expansion of the~~
5 **construction of an expanded** Pacheco Reservoir shall be subject to future
6 congressional authorization~~;~~.

7 ~~(ii)~~**(B) INTERTIE.—Funds may be expended for feasibility studies and**
8 **evaluation of increased capacity of the intertie between the State Water**
9 **Project California Aqueduct and the Central Valley Project Delta**
10 **Mendota Canal.**

11 **(C) FRANKS TRACT.—Funds may be expended for** feasibility studies and
12 actions at Franks Tract to improve water quality in the Delta~~;~~.

13 ~~(iii)~~**(D) CLIFTON COURT FOREBAY AND THE TRACY PUMPING PLANT.—**
14 **Funds may be expended for** feasibility studies and design of fish screen and
15 intake facilities at Clifton Court Forebay and the Tracy Pumping Plant
16 facilities~~;~~ and~~.~~

17 ~~(iv) feasibility studies to investigate the recirculation of export water to~~
18 ~~reduce salinity and improve dissolved oxygen~~**(E) DRINKING WATER INTAKE**
19 **FACILITIES.—**

20 **(i) IN GENERAL.—Funds may be expended for design and**
21 **construction of the relocation of drinking water intake facilities to in-**
22 **Delta water users.**

23 **(ii) DRINKING WATER QUALITY.—The Secretary shall coordinate**
24 **actions for relocating intake facilities on a time schedule consistent**
25 **with subsection (d)(2)(A)(i)(I)(bb) or take other actions necessary to**
26 **offset the degradation of drinking water quality in the Delta due to the**
27 **South Delta Improvement Program.**

28 **(F) NEW MELONES RESERVOIR.—**

29 **(i) IN GENERAL.—In addition to the other authorizations granted to**
30 **the Secretary by this title, the Secretary shall acquire water from**
31 **willing sellers and undertake other actions designed to decrease**
32 **releases from the New Melones Reservoir for meeting water quality**
33 **standards and flow objectives for which the Central Valley Project**
34 **has responsibility to assist in meeting allocations to Central Valley**
35 **Project contractors from the New Melones Project.**

36 **(ii) PURPOSE.—The authorization under this subparagraph is solely**
37 **meant to add flexibility for the Secretary to meet any obligations of**
38 **the Secretary to the Central Valley Project contractors from the New**
39 **Melones Project by reducing demand for water dedicated to meeting**
40 **water quality standards in the San Joaquin River.**

41 **(iii) FUNDING.—Of the amounts authorized to be appropriated**
42 **under section 109, not more than \$30,000,000 may be expended to**

1 carry out clause (i).

2 (G) RECIRCULATION OF EXPORT WATER.—Funds may be used to conduct
3 feasibility studies, evaluate, and, if feasible, implement the recirculation of
4 export water to reduce salinity and improve dissolved oxygen in the San
5 Joaquin River.

6 (2) ENVIRONMENTAL WATER ACCOUNT.—

7 (A) IN GENERAL.—~~Of (B) Environmental water account.~~—Of the amounts
8 authorized to be appropriated under section § 109, not more than \$90,000,000
9 may be expended for implementation of the Environmental Water Account.

10 (B) NONREIMBURSABLE FEDERAL EXPENDITURE.—Expenditures under
11 subparagraph (A) shall be considered a nonreimbursable Federal
12 expenditure in recognition of the payments of the contractors of the
13 Central Valley Project to the Restoration Fund created by the Central
14 Valley Project Improvement Act (Title XXXIV of Public Law 102–575;
15 106 Stat. 4706).

16 (C) USE OF RESTORATION FUND.—

17 (i) IN GENERAL.—Of the amounts appropriated for the Restoration
18 Fund for each fiscal year, an amount not to exceed \$10,000,000 for
19 any fiscal year may be used to implement the Environmental Water
20 Account to the extent those actions are consistent with the fish and
21 wildlife habitat restoration and improvement purposes of the Central
22 Valley Project Improvement Act.

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

29 (iii) FEDERAL FUNDING.—The \$10,000,000 limitation on the use of
30 the Restoration Fund for the Environmental Water Account under
31 clause (i) does not limit the appropriate amount of Federal funding
32 for the Environmental Water Account.

33 (3) LEVEE STABILITY.—

34 (A) IN GENERAL.—For purposes of implementing the Calfed Bay-Delta
35 Program within the Delta (as defined in Cal. Water Code 12220)), the
36 Secretary of the Army is authorized to undertake the construction and
37 implementation of levee stability programs or projects for such purposes
38 as flood control, ecosystem restoration, water supply, water conveyance,
39 and water quality objectives.

40 (B) REPORT.—Not later than 180 days after the date of enactment of this
41 Act, the Secretary of the Army shall submit to the appropriate authorizing
42 and appropriating committees of the Senate and the House of

1 **Representatives a report that describes the levee stability reconstruction**
2 **projects and priorities that will be carried out under this title during each**
3 **of fiscal years 2005 through 2010.**

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

8 **(D) PROJECTS.—**~~Of (C) Levee stability.~~ **Of the amounts authorized to be**
9 **appropriated under section 8 109, not more than \$90,000,000 may be expended**
10 **for — to —**

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

13 ~~(ii) enhancing~~ **(ii) enhance** the stability of levees that have particular
14 importance in the system through the Delta Levee Special Improvement
15 ~~Projects program~~ **Program;**

16 ~~(iii) developing~~ **develop** best management practices to control and
17 reverse land subsidence on Delta islands;

18 ~~(iv) refining the Delta Emergency Plan;~~ **develop a Delta Levee**
19 **Emergency Management and Response Plan that will enhance the**
20 **ability of Federal, State, and local agencies to rapidly respond to levee**
21 **emergencies;**

22 ~~(v) developing~~ **(v) develop** a Delta Risk Management Strategy after
23 assessing the consequences of Delta levee failure from floods, seepage,
24 subsidence, and earthquakes;

25 ~~(vi) developing a strategy for reuse of dredged materials on Delta~~
26 ~~islands;~~ **reconstruct Delta levees using, to the maximum extent**
27 **practicable, dredged materials from the Sacramento River, the San**
28 **Joaquin River, and the San Francisco Bay in reconstructing Delta**
29 **levees;**

30 ~~(vii) evaluating, and where appropriate, rehabilitating the Suisun Marsh~~
31 ~~levees; and~~

32 ~~(viii) integrated~~ **(vii) coordinate Delta levee projects with** flood
33 management, ecosystem restoration, and levee protection projects;
34 ~~including design and construction of~~ **of the** lower San Joaquin River and
35 lower Mokelumne River floodway improvements and other projects under
36 the Sacramento-San Joaquin Comprehensive Study; **and-**

37 ~~(D)(viii) evaluate and, if appropriate, rehabilitate the Suisun Marsh~~
38 **levees.**

39 **(4) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—**

40 ~~(i)(A) IN GENERAL.—~~ **(A) IN GENERAL.—**Of the amounts authorized to be appropriated under
41 section 8 109, not more than \$25,000,000 may be expended by the Secretary or

1 the other heads of Federal agencies, either directly or through grants, contracts,
2 or cooperative agreements with agencies of the State, for—

3 ~~(I)~~(i) Program support;

4 ~~(II)~~(ii) Program-wide tracking of schedules, finances, and performance;

5 ~~(III)~~(iii) multiagency oversight and coordination of Program activities to
6 ensure Program balance and integration;

7 ~~(IV)~~(iv) development of interagency cross-cut budgets and a
8 comprehensive finance plan to allocate costs in accordance with the
9 beneficiary pays provisions of the Record of Decision;

10 ~~(V)~~(v) coordination of public outreach and involvement, including
11 tribal, environmental justice, and public advisory activities in accordance
12 with the Federal Advisory Committee Act (5 U.S.C. App.); and

13 ~~(VI)~~(vi) development of Annual Reports.

14 ~~(ii)~~(B) PROGRAM-WIDE ACTIVITIES.—Of the amount referred to in ~~clause (i)~~
15 **subparagraph (A)**, not less than 50 percent of the appropriated amount shall
16 be provided to the California Bay-Delta Authority to carry out Program-wide
17 management, oversight, and coordination activities.

18 SEC. 4-104. MANAGEMENT.

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

21 (b) PUBLIC PARTICIPATION.—In carrying out the Calfed Bay-Delta Program, the
22 Federal agencies shall cooperate with local and tribal governments and the public through
23 an advisory committee established in accordance with the Federal Advisory Committee
24 Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and
25 ~~implementation~~ **design, technical assistance, and development of peer review science**
26 **programs.**

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

29 (1) all major aspects of implementing the Program are subjected to credible and
30 objective scientific review; and

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

32 (d) GOVERNANCE.—

33 (1) IN GENERAL.—In carrying out the Calfed Bay-Delta Program, the Secretary
34 and the Federal agency heads are authorized to participate as nonvoting members of
35 the California Bay-Delta Authority, as established in the California Bay-Delta
36 Authority Act (Cal. Water Code 79400 et seq.), to the extent consistent with Federal
37 law, for the full duration of the period the Authority continues to be authorized by
38 State law.

39 (2) RELATIONSHIP TO FEDERAL LAW AND AGENCIES.—Nothing in this subsection

1 shall preempt or otherwise affect any Federal law or limit the statutory authority of
2 any Federal agency.

3 (3) CALIFORNIA BAY-DELTA AUTHORITY.—

4 (A) ADVISORY COMMITTEE.—The California Bay-Delta Authority shall not
5 be considered an advisory committee within the meaning of the Federal
6 Advisory Committee Act (5 U.S.C. App.).

7 (B) FINANCIAL INTEREST.—The financial interests of the California Bay-
8 Delta Authority shall not be imputed to any Federal official participating in the
9 Authority.

10 (C) ETHICS REQUIREMENTS.—A Federal official participating in the
11 California Bay-Delta Authority shall remain subject to Federal financial
12 disclosure and conflict of interest laws and shall not be subject to State
13 financial disclosure and conflict of interest laws.

14 (e) ENVIRONMENTAL JUSTICE.—The Federal agencies, consistent with Executive Order
15 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to—

16 (1) develop a comprehensive environmental justice workplan for the Calfed Bay-
17 Delta Program; and

18 (2) fulfill the commitment to addressing environmental justice challenges referred
19 to in the Calfed Bay-Delta Program Environmental Justice Workplan, dated
20 December 13, 2000.

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

24 **SEC. 5 105. REPORTING REQUIREMENTS.**

25 (a) REPORT.—

26 (1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in
27 cooperation with the Governor ~~and the California Bay-Delta Authority~~, shall submit
28 to the appropriate authorizing and appropriating ~~Committees~~ **committees** of the
29 Senate and the House of Representatives a report that—

30 (A) describes the status of implementation of all components of the Calfed
31 Bay-Delta Program;

32 (B) sets forth any written determination resulting from the review required
33 under subsection (b) **or section 103(d)(1)(B)**; and

34 (C) includes any revised schedule prepared under subsection (b) **or section**
35 **103(d)(1)(B)(iii)(II)**.

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

37 (A) the progress of the Calfed Bay-Delta Program in meeting the
38 implementation schedule for the Program in a manner consistent with the
39 Record of Decision;

1 (B) the status of implementation of all components of the Program;
2 (C) expenditures in the past fiscal year for implementing the Program;
3 (D) accomplishments during the past fiscal year in achieving the objectives
4 of additional and improved—

5 (i) water storage;

6 (ii) water quality, **including—**

7 **(I) the water quality targets described in section 2.2.9 of the**
8 **Record of Decision; and**

9 **(II) any pending actions that may affect the ability of the**
10 **Calfed Bay-Delta Program to achieve those targets and**
11 **requirements;**

12 (iii) water use efficiency;

13 (iv) ecosystem restoration;

14 (v) watershed management;

15 (vi) levee system integrity;

16 (vii) water transfers;

17 (viii) water conveyance; ~~and~~

18 (ix) water supply reliability (**including new firm yield**), **including**
19 **progress in achieving the water supply targets described in section**
20 **2.2.4 of the Record of Decision and any pending actions that may**
21 **affect the ability of the Calfed Bay-Delta Program to achieve those**
22 **targets; and**

23 **(x) the uses and assets of the environmental water account**
24 **described in section 2.2.7 of the Record of Decision;**

25 (E) Program goals, current schedules, and relevant financing agreements,
26 **including funding levels necessary to achieve completion of the feasibility**
27 **studies and environmental documentation for the surface storage projects**
28 **identified in section 103 by not later than September 30, 2008;**

29 (F) progress on—

30 (i) storage projects;

31 (ii) conveyance improvements;

32 (iii) levee improvements;

33 (iv) water quality projects; and

34 (v) water use efficiency programs;

35 (G) completion of key projects and milestones identified in the Ecosystem
36 Restoration Program, **including progress on project effectiveness,**
37 **monitoring, and accomplishments;**

- 1 (H) development and implementation of local programs for watershed
- 2 conservation and restoration;
- 3 (I) progress in improving water supply reliability and implementing the
- 4 Environmental Water Account;
- 5 (J) achievement of commitments under the Endangered Species Act of 1973
- 6 (16 U.S.C. 1531 et seq.) and endangered species law of the State;
- 7 (K) implementation of a comprehensive science program;
- 8 (L) progress toward acquisition of the Federal and State permits (including
- 9 permits under section 404(a) of the Federal Water Pollution Control Act (33
- 10 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;
- 11 (M) progress in achieving benefits in all geographic regions covered by the
- 12 Program;
- 13 (N) legislative action ~~on the issues of~~ **on**—
- 14 (i) water ~~transfers~~ **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 Program responsibilities.

21 (b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

22 (1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in

23 cooperation with the Governor ~~and the Calfed Bay-Delta Authority~~, shall review

24 progress in implementing the Calfed Bay-Delta Program based on—

25 (A) consistency with the Record of Decision; and

26 (B) balance in achieving the goals and objectives of the Calfed Bay-Delta

27 Program.

28 (2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a

29 timely annual review is not undertaken, the Secretary; ~~or the Governor; or the~~

30 ~~Calfed Bay-Delta Authority~~ determines in writing that either the Program

31 implementation schedule has not been substantially adhered to, or that balanced

32 progress in achieving the goals and objectives of the Program is not occurring, the

33 Secretary; ~~and the Governor, and the Calfed Bay-Delta Authority~~, in coordination

34 with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to

35 achieve balanced progress in all Calfed Bay-Delta Program elements consistent with

36 the intent of the Record of Decision.

37 (c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this ~~Act~~

38 **title** shall include identification of project benefits and a cost allocation plan consistent

1 with the beneficiaries pay provisions of the Record of Decision.

2 **SEC. 6 106. CROSSCUT BUDGET.**

3 (a) ~~IN GENERAL.—The budget of the President shall include requests~~ **President's**
4 **budget shall include such requests as the President considers necessary and**
5 **appropriate** for the appropriate level of funding for each of the Federal agencies to carry
6 out ~~the its~~ responsibilities ~~of the Federal agency~~ under the Calfed Bay-Delta Program.

7 (b) ~~REQUESTS BY FEDERAL AGENCIES.—The funds shall be requested for the Federal~~
8 ~~agency with authority and programmatic responsibility for the obligation of the funds, in~~
9 ~~accordance with paragraphs (2) subsections (b) through (5)(f) of section 3(b).~~ **103.**

10 ~~(c) Report.—At the time of~~ **(c) REPORT.—Not later than 30 days after** submission of
11 the budget of the President to Congress, the Director of the Office of Management and
12 Budget, in coordination with the ~~Authority~~ **Governor**, shall submit to the appropriate
13 authorizing and appropriating committees of the Senate and the House of Representatives
14 a financial report certified by the Secretary containing—

15 (1) an interagency budget crosscut report that—

16 (A) displays the budget proposed, including any interagency or ~~intraagency~~
17 **intra-agency** transfer, for each of the Federal agencies to carry out the Calfed
18 Bay-Delta Program for the upcoming fiscal year, separately showing funding
19 requested under both pre-existing authorities and under the new authorities
20 granted by this ~~Act~~ **title**; and

21 (B) identifies all expenditures since ~~2000~~ **1998** by the Federal and State
22 governments to achieve the objectives of the Calfed Bay-Delta Program;

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

26 (3) a budget for the proposed projects (including a description of the project,
27 authorization level, and project status) to be carried out in the upcoming fiscal year
28 with the Federal portion of funds for activities under **subsections (b) through (f) of**
29 ~~section 3(b)~~ **103**; and

30 (4) a listing of all projects to be undertaken in the upcoming fiscal year with the
31 Federal portion of funds for activities under **subsections (b) through (f) of** section
32 ~~3(b)~~ **103**.

33 **SEC. 7 107. FEDERAL SHARE OF COSTS.**

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

37 **(b) PAYMENT FOR BENEFITS.—The Secretary shall ensure that all beneficiaries,**
38 **including beneficiaries of environmental restoration and other Calfed program**
39 **elements, shall pay for the benefit received from all projects or activities carried out**
40 **under the Calfed Bay-Delta Program.**

1 (c) INTEGRATED RESOURCE PLANNING.—Federal expenditures for the Calfed Bay-
2 Delta Program shall be implemented in a manner that encourages integrated
3 resource planning.

4 **SEC. 108. COMPLIANCE WITH STATE AND** 5 **FEDERAL LAW.**

6 Nothing in this title—

7 (1) invalidates or preempts State water law or an interstate compact
8 governing water;

9 (2) alters the rights of any State to any appropriated share of the waters of
10 any body of surface or ground water;

11 (3) preempts or modifies any State or Federal law or interstate compact
12 governing water quality or disposal;

13 (4) confers on any non-Federal entity the ability to exercise any Federal right
14 to the waters of any stream or to any ground water resource; or

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

17 **SEC. 109 ~~SEC. 8.~~ AUTHORIZATION OF** 18 **APPROPRIATION.**

19 There are authorized to be appropriated to the Secretary and the heads of the Federal
20 agencies to pay the Federal share of the cost of carrying out the new and expanded
21 authorities described in paragraphs ~~(4)~~ subsections (e) and ~~(5)~~(f) of section ~~3(b)~~ 103
22 \$389,000,000 for the period of fiscal years 2005 through 2010, to remain available until
23 expended.

24 **TITLE II—MISCELLANEOUS**

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

26 Not later than December 31, 2006, the Secretary of the Interior, in coordination
27 with the State of California and the Salton Sea Authority, shall complete a feasibility
28 study on a preferred alternative for Salton Sea restoration.

29 **SEC. 202. ALDER CREEK WATER STORAGE AND** 30 **CONSERVATION PROJECT FEASIBILITY STUDY** 31 **AND REPORT.**

32 (a) STUDY.—Pursuant to Federal reclamation law (the Act of June 17, 1902 (32
33 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43
34 U.S.C. 371 et seq.)), the Secretary of the Interior (referred to in this section as the
35 “Secretary”), through the Bureau of Reclamation, and in consultation and
36 cooperation with the El Dorado Irrigation District, is authorized to conduct a study

1 to determine the feasibility of constructing a project on Alder Creek in El Dorado
2 County, California, to store water and provide water supplies during dry and
3 critically dry years for consumptive use, recreation, in-stream flows, irrigation, and
4 power production.

5 (b) REPORT.—

6 (1) TRANSMISSION.—On completion of the study authorized by subsection
7 (a), the Secretary shall transmit to the Committee on Resources of the House of
8 Representatives and the Committee on Energy and Natural Resources of the
9 Senate a report containing the results of the study.

10 (2) CONTENTS OF REPORT.—The report shall contain appropriate cost
11 sharing options for the implementation of the project based on the use and
12 possible allocation of any stored water.

13 (3) USE OF AVAILABLE MATERIALS.—In developing the report under this
14 section, the Secretary shall use reports and any other relevant information
15 supplied by the El Dorado Irrigation District.

16 (c) COST SHARE.—

17 (1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study
18 authorized by this section shall not exceed 50 percent of the total cost of the
19 study.

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

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

26 **SEC. 203. FOLSOM RESERVOIR TEMPERATURE**
27 **CONTROL DEVICE AUTHORIZATION.**

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