

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1411

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. GORTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Yakima Basin Water  
5       Enhancement Act of 1993”.

6       **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

8               (1) to protect, mitigate, and enhance fish and  
9       wildlife through improved water management, im-  
10      proved instream flows, improved water quality, pro-

1       tection, creation and enhancement of wetlands, and  
2       by other appropriate means of habitat improvement;

3           (2) to improve the reliability of water supply for  
4       irrigation;

5           (3) to authorize a Yakima basin water con-  
6       servation program that will improve the efficiency of  
7       water delivery and use, and to enhance basin water  
8       supplies, improve water quality, protect, create and  
9       enhance wetlands, and determine the quantity of  
10      basin water needs that can be met by water con-  
11      servation measures;

12          (4) to encourage voluntary transactions among  
13      public and private entities that result in the imple-  
14      mentation of water conservation measures, practices,  
15      and facilities; and

16          (5) to provide for the discretionary implementa-  
17      tion by the Yakima Indian Nation of—

18           (A) an irrigation demonstration project on  
19      the Yakima Indian Reservation using water sav-  
20      ings from system improvements to the Wapato  
21      Irrigation Project; and

22           (B) a Toppenish Creek corridor enhance-  
23      ment project integrating agricultural, fish, wild-  
24      life, and cultural resources.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

3 (1) **BASIN CONSERVATION PROGRAM.**—The  
4 term “Basin Conservation Program” means the  
5 Yakima River Basin Water Conservation Program  
6 established under section 4(a).

7 (2) **CONSERVATION ADVISORY GROUP.**—The  
8 term “Conservation Advisory Group” means the  
9 Yakima River Basin Conservation Advisory Group  
10 established under section 4(c).

11 (3) **IRRIGATION DEMONSTRATION PROJECT.**—  
12 The term “Irrigation Demonstration Project” means  
13 the Yakima Indian Reservation Irrigation Dem-  
14 onstration Project authorized in section 5(b).

15 (4) **ON-DISTRICT STORAGE.**—The term “on-dis-  
16 trict storage” means small water storage facilities lo-  
17 cated within the boundaries of an irrigation entity,  
18 including reregulating reservoirs, holding ponds, or  
19 other new storage methods that allow for efficient  
20 water use.

21 (5) **SECRETARY.**—The term “Secretary” means  
22 the Secretary of the Interior.

23 (6) **TOPPENISH ENHANCEMENT PROJECT.**—The  
24 term “Toppenish Enhancement Project” means the  
25 Toppenish Creek Corridor Enhancement Project au-  
26 thorized by section 5(c).

1           (7) YAKIMA PROJECT SUPERINTENDENT.—The  
2 term “Yakima Project Superintendent” means the  
3 individual designated by the Regional Director, Pa-  
4 cific Northwest Region, Bureau of Reclamation, to  
5 be responsible for the operation and management of  
6 the Yakima Federal Reclamation Project, Washing-  
7 ton.

8 **SEC. 4. YAKIMA RIVER BASIN WATER CONSERVATION PRO-**  
9 **GRAM.**

10 (a) ESTABLISHMENT.—

11           (1) IN GENERAL.—The Secretary, in consulta-  
12 tion with the Governor of the State of Washington,  
13 representatives of the Yakima Indian Nation, Yak-  
14 ima River Basin irrigators, and other interested par-  
15 ties, shall establish and administer a Yakima River  
16 Basin Water Conservation Program.

17           (2) PURPOSE.—The purpose of the Basin Con-  
18 servation Program shall be to evaluate and carry out  
19 measures to improve the availability of water sup-  
20 plies for irrigation and the protection and enhance-  
21 ment of fish and wildlife resources, including wet-  
22 lands, while improving the quality of water in the  
23 Yakima Basin.

24           (3) YAKIMA INDIAN NATION.—This section shall  
25 not apply to the Yakima Indian Nation except to the

1 extent that the Yakima Indian Nation specifically  
2 applies for funds from the Basin Conservation Pro-  
3 gram.

4 (4) GRANTS.—The Secretary may make grants  
5 to eligible entities to carry out this Act under such  
6 terms and conditions as the Secretary may require.

7 (b) PHASES OF PROGRAM.—The Basin Conservation  
8 Program shall encourage and provide funding assistance  
9 for the following 4 phases of water conservation:

10 (1) FIRST PHASE.—The first phase shall con-  
11 sist of the development of water conservation plans,  
12 consistent with guidelines developed pursuant to  
13 subsection (d), by—

14 (A) irrigation districts;

15 (B) conservation districts;

16 (C) water purveyors;

17 (D) other areawide entities; and

18 (E) individuals not included within an  
19 areawide entity.

20 (2) SECOND PHASE.—The second phase shall  
21 consist of the investigation of the feasibility of spe-  
22 cific potential water conservation measures identified  
23 in conservation plans.

24 (3) THIRD PHASE.—The third phase shall con-  
25 sist of the implementation of measures that have

1       been identified in conservation plans and have been  
2       investigated for feasibility.

3           (4) FOURTH PHASE.—The fourth phase shall  
4       consist of post-implementation monitoring and eval-  
5       uation of implemented measures.

6       (c) CONSERVATION ADVISORY GROUP.—

7           (1) ESTABLISHMENT.—Not later than 1 year  
8       after the date of enactment of this Act, the Sec-  
9       retary, in consultation with the Governor of the  
10      State of Washington, representatives of the Yakima  
11      Indian Nation, Yakima River basin irrigators, and  
12      other interested and related parties, shall establish  
13      the Yakima River Basin Conservation Advisory  
14      Group.

15          (2) MEMBERS.—Members of the Conservation  
16      Advisory Group shall be appointed by the Secretary  
17      and shall be comprised of—

18            (A) 2 representatives of the Yakima River  
19      basin irrigators;

20            (B) 1 representative of the Yakima Indian  
21      Nation;

22            (C) 1 representative of counties and cities  
23      in the Yakima River basin; and

24            (D) 1 representative of environmental in-  
25      terests.

1           (3) DUTIES.—The Conservation Advisory  
2 Group shall—

3           (A) provide recommendations to the Sec-  
4 retary regarding the structure and implementa-  
5 tion of the Basin Conservation Program;

6           (B) assist in the preparation of guidelines  
7 for the Basin Conservation Program, as pro-  
8 vided for in subsection (d);

9           (C) structure a process to integrate spe-  
10 cific water conservation measures into a basin  
11 conservation plan;

12           (D) provide for an annual review of the  
13 implementation of the guidelines; and

14           (E) provide recommendations consistent  
15 with State laws, on rules, regulations, and ad-  
16 ministration of a process to facilitate the vol-  
17 untary sale or lease of water.

18           (4) DECISIONMAKING.—The Conservation Advi-  
19 sory Group shall make decisions based on consensus  
20 whenever possible. If disagreement occurs, any mem-  
21 ber may submit independent comments to the Sec-  
22 retary.

23           (5) TERMINATION.—The Conservation Advisory  
24 Group shall terminate 5 years after the date of the

1 establishment of the Advisory Group, unless ex-  
2 tended by the Secretary.

3 (d) GUIDELINES.—

4 (1) IN GENERAL.—The Secretary, in coopera-  
5 tion with the Governor of the State of Washington,  
6 representatives of the Yakima Indian Nation, Yak-  
7 ima River basin irrigators, and interested agencies,  
8 and in consultation with the Conservation Advisory  
9 Group, shall, not later than 1 year after all of the  
10 members of the Conservation Advisory Group are  
11 appointed, adopt guidelines to be used in the admin-  
12 istration of the Basin Conservation Program.

13 (2) REPORT.—

14 (A) IN GENERAL.—The Secretary shall  
15 submit a detailed report on the guidelines to—

16 (i) the Committee on Energy and  
17 Natural Resources of the Senate;

18 (ii) the Committee on Natural Re-  
19 sources of the House of Representatives;  
20 and

21 (iii) the Governor of the State of  
22 Washington.

23 (B) DRAFT REPORT.—Not later than 60  
24 days prior to the submission of the report under

1           subparagraph (A), the Secretary shall make a  
2           draft of the report available to—

3                   (i) the Governor of the State of Wash-  
4                   ington;

5                   (ii) representatives of the Yakima In-  
6                   dian Nation;

7                   (iii) Yakima River basin irrigators;

8                   (iv) representatives of related agen-  
9                   cies; and

10                  (v) the public.

11           (C) COMMENT.—

12                   (i) PROCEDURES.—The Secretary  
13                   shall establish procedures for timely com-  
14                   ments on the draft report.

15                   (ii) INCLUSION OF COMMENTS.—The  
16                   Secretary shall include a summary of the  
17                   comments on the draft report as an appen-  
18                   dix to the final report.

19           (3) CONTENTS OF GUIDELINES.—The guide-  
20           lines shall, to the extent possible, be consistent with  
21           State law funding processes, regulations, and guide-  
22           lines and shall include the following:

23                   (A) Standards for the scope and content of  
24                   water conservation plans and for feasibility  
25                   studies of specific measures.

1 (B) Eligibility requirements for funding of  
2 proposals for conservation plan development, in-  
3 vestigation of measures, and implementation.

4 (C) Criteria for evaluating and prioritizing  
5 proposals for the development of conservation  
6 plans and the investigation of potential meas-  
7 ures and implementation, including—

8 (i) the availability of information on  
9 water diversions and use in the area for  
10 which the measures are proposed;

11 (ii) information to be gained, and ap-  
12 plicability to other areas and programs in  
13 the Yakima River basin;

14 (iii) cost-effectiveness and availability  
15 of non-Federal funding;

16 (iv) the quantity of reduced diversions  
17 and timing in relation to present diver-  
18 sions;

19 (v) the extent to which each measure  
20 will contribute to the improved use of the  
21 available water and the reliability of the  
22 water supply of the Yakima River basin;

23 (vi) post-implementation monitoring  
24 and evaluation;

- 1 (vii) a plan to mitigate adverse envi-  
2 ronmental effects;
- 3 (viii) the extent to which proposed  
4 measures incorporate the testing of innova-  
5 tive water management techniques and  
6 technology;
- 7 (ix) the extent to which proposed  
8 measures contribute to the maintenance of  
9 the economic viability of agriculture in the  
10 area;
- 11 (x) consistency with applicable laws  
12 and Federal, State, tribal, and Yakima  
13 River basin water resource policies, goals,  
14 and objectives;
- 15 (xi) the existence or willingness of ir-  
16 rigation entities and other Basin Conserva-  
17 tion Program participants to adopt proce-  
18 dures providing for incremental water pric-  
19 ing; and
- 20 (xii) the willingness to permanently  
21 restrict annual water diversions to a mutu-  
22 ally agreed quantity in recognition of se-  
23 curing funding from and accomplishments  
24 of the Basin Conservation Program.

1 (D) Institutional and economic incentives  
 2 to increase conservation and to promote more  
 3 efficient use of water, including the specifica-  
 4 tion of procedures for the voluntary transfer of  
 5 water within the Yakima River basin.

6 (E) Procedures for administration and al-  
 7 location of funds from the Basin Conservation  
 8 Program.

9 (F) Oversight of the Basin Conservation  
 10 Program and consultation requirements.

11 (e) COST SHARING.—

12 (1) IN GENERAL.—Costs incurred in the 4  
 13 phases of the Basin Conservation Program shall be  
 14 shared as follows:

Program phase	Non-Federal		Federal share
	State share	Local	
1. Development of water conservation plans	50% but not more than \$200,000 per recipient	Residual amount if any	50%
2. Investigation of specific water conservation measures	50% but sum of 1 and 2 not greater than \$200,000 per recipient	20% after deducting State funds for Item 2	Residual amount after deducting State and local funds for Item 2
3 and 4. Implementation and post-implementation monitoring and evaluation	35%	30%	35%

1           (2) SPECIFIC WATER RELATED IMPROVE-  
2           MENTS.—

3           (A) NON-FEDERAL EXPENDITURES.—

4           Water and water related resource improvements  
5           implemented in the Yakima River basin subse-  
6           quent to and independent of this Act that uti-  
7           lize funding from the Bonneville Power Admin-  
8           istration under the Pacific Northwest Electric  
9           Power Planning and Conservation Act of 1980  
10          (16 U.S.C. 839 et seq.) to enhance fishery re-  
11          sources, and independent water related im-  
12          provements of the State of Washington and  
13          other public and private entities to improve irri-  
14          gation water use, water supply, and water qual-  
15          ity shall be treated as non-Federal cost-share  
16          expenditures under this Act for purposes of the  
17          implementation and post-implementation mon-  
18          itoring and evaluation phases of the Basin Con-  
19          servation Program.

20          (B) LIMITATION ON AMOUNT OF NON-FED-  
21          ERAL SHARE.—Expenditures described in sub-  
22          paragraph (A) shall be limited to 50 percent of  
23          the non-Federal share of the total costs in-  
24          curred in the implementation and post-imple-  
25          mentation monitoring and evaluation phases of

1 the Basin Conservation Program, and shall re-  
2 duce the total amount of the non-Federal cost  
3 share required for the phases.

4 (3) BASIN CONSERVATION PROGRAM.—Costs of  
5 the Basin Conservation Program related to projects  
6 on the Yakima Indian Reservation shall be a Federal  
7 responsibility, shall be nonreimbursable, and shall  
8 not be subject to the cost-sharing requirements of  
9 this subsection.

10 (f) PUBLIC REVIEW.—A water conservation plan rec-  
11 ommended for funding through the Basin Conservation  
12 Program shall be made available to the public for a period  
13 of not less than 30 days for review and comment prior  
14 to submission to the Secretary. A summary of the com-  
15 ments shall be included with the recommendation of the  
16 Conservation Advisory Group upon transmittal to the Sec-  
17 retary.

18 (g) CONSERVATION MEASURES.—

19 (1) IN GENERAL.—Measures considered for im-  
20 plementation in the Basin Conservation Program  
21 may include—

22 (A) conveyance and distribution system  
23 monitoring;

24 (B) automation of water conveyance sys-  
25 tems;

- 1 (C) lining and piping of water conveyance  
2 and distribution systems;
- 3 (D) on-district storage;
- 4 (E) electrification of hydraulic turbines;
- 5 (F) tailwater recycling;
- 6 (G) consolidation of irrigation systems;
- 7 (H) irrigation scheduling; and
- 8 (I) improvement of on-farm water applica-  
9 tion systems.

10 (2) FUNDING.—Basin Conservation Program  
11 funds may be used throughout all 4 phases of the  
12 Conservation Program to mitigate adverse effects of  
13 program measures.

14 (3) OTHER MEASURES.—

15 (A) TESTING.—In addition to implement-  
16 ing technologies existing on the date of enact-  
17 ment of this Act, the Secretary shall encourage  
18 the testing of innovative water conservation  
19 measures.

20 (B) INNOVATIVE ALLOCATION TOOLS.—  
21 The Secretary shall, to the maximum extent  
22 possible under Federal and State law, cooperate  
23 with the State of Washington to facilitate—

- 24 (i) water and water right transfers;
- 25 (ii) water banking;

- 1 (iii) dry year options;
- 2 (iv) the sale and leasing of water; and
- 3 (v) other innovative allocation tools
- 4 used to maximize the utility of Yakima
- 5 River basin water supplies.

6 (4) ACQUISITION OF WATER RIGHTS.—The Sec-

7 retary may use funds made available to carry out

8 this section for the purchase or lease of land, water,

9 or water rights from any entity or individual willing

10 to limit or forego water use on a temporary or per-

11 manent basis.

12 (5) ON-FARM WATER MANAGEMENT.—On-farm

13 water management improvements shall be coordi-

14 nated with programs administered by the Secretary

15 of Agriculture and State conservation districts.

16 (h) AUTHORIZATION OF APPROPRIATIONS.—There

17 are authorized to be appropriated to the Secretary the fol-

18 lowing amounts for the Basin Conservation Program:

19 (1) \$1,000,000 for the development of water

20 conservation plans.

21 (2) \$4,000,000 for investigation of specific po-

22 tential water conservation measures identified in

23 conservation plans for consideration for implement-

24 ing through the Basin Conservation Program.

1           (3) \$67,500,000 for implementation, post-im-  
2           plementation monitoring and evaluation of measures,  
3           and addressing environmental impacts.

4           (4) \$6,000,000 for the initial acquisition of  
5           water from willing sellers or lessors specifically to  
6           provide instream flows for interim periods to facili-  
7           tate the outward migration of anadromous fish. The  
8           funds shall not be subject to the cost-sharing re-  
9           quirements of subsection (e).

10          (5) \$100,000 for each fiscal year for the estab-  
11          lishment and support of the Conservation Advisory  
12          Group during duration of the Group. Funds made  
13          available under this paragraph shall be made avail-  
14          able for travel and per diem expenses, rental of  
15          meeting rooms, typing, printing and mailing, and as-  
16          sociated administrative needs. The Secretary and the  
17          Governor of the State of Washington shall provide  
18          appropriate staff support to the Conservation Advi-  
19          sory Group.

20 **SEC. 5. YAKIMA INDIAN NATION.**

21          (a) WAPATO IRRIGATION PROJECT IMPROVE-  
22          MENTS.—

23                (1) COORDINATION.—The system improvements  
24          of the Yakima Indian Nation to the Wapato Irriga-

1 tion Project proposed pursuant to this Act shall be  
2 coordinated with the Bureau of Indian Affairs.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 (A) IN GENERAL.—There are authorized to  
5 be appropriated to the Secretary \$10,000,000  
6 for the preparation of plans, investigation of  
7 measures, and, following the certification by the  
8 Secretary that the measures are consistent with  
9 the water conservation objectives of this Act,  
10 the implementation of system improvements to  
11 the Wapato Irrigation Project.

12 (B) FURTHER IMPROVEMENTS.—Funding  
13 for further improvements within the Wapato Ir-  
14 rigation Project may be acquired under the  
15 Basin Conservation Program or other sources  
16 identified by the Yakima Indian Nation.

17 (3) USE OF SAVINGS.—Water savings resulting  
18 from irrigation system improvements shall be avail-  
19 able for the use of the Yakima Indian Nation for ir-  
20 rigation and other purposes on the reservation and  
21 for protection and enhancement of fish and wildlife  
22 within the Yakima River basin. The conveyance of  
23 the water through irrigation facilities, other than the  
24 Wapato Irrigation Project, shall be on a voluntary  
25 basis.

1 (b) IRRIGATION DEMONSTRATION PROJECT.—

2 (1) IN GENERAL.—Subject to paragraph (3),  
3 there are authorized to be appropriated to the Sec-  
4 retary \$8,500,000 for the design and construction of  
5 the Yakima Indian Reservation Irrigation Dem-  
6 onstration Project.

7 (2) OPERATION AND MAINTENANCE.—In addi-  
8 tion to amounts made available under paragraph  
9 (1), and subject to paragraph (3), there are author-  
10 ized to be appropriated to the Secretary such sums  
11 as are necessary for the operation and maintenance  
12 of the Irrigation Demonstration Project, including  
13 funds for administration, training, equipment, mate-  
14 rials, and supplies for a period specified by the  
15 Secretary.

16 (3) CONCURRENCE OF SECRETARY.—Funds  
17 may not be made available under this subsection  
18 until the Yakima Indian Nation obtains the concur-  
19 rence of the Secretary in the construction, manage-  
20 ment, and administration of the Irrigation Dem-  
21 onstration Project.

22 (4) CONSTRUCTION OF FACILITIES.—The Irri-  
23 gation Demonstration Project shall provide for the  
24 construction of distribution and on-farm irrigation  
25 facilities to use water savings resulting from the

1 Wapato Irrigation Project system improvements  
2 for—

3 (A) demonstrating cost-effective, state-of-  
4 the-art irrigation water management and con-  
5 servation;

6 (B) training tribal members in irrigation  
7 methods, operation, and management; and

8 (C) upgrading existing hydroelectric facili-  
9 ties and constructing additional hydroelectric  
10 facilities on the reservation to meet irrigation  
11 pumping power needs.

12 (c) TOPPENISH CREEK CORRIDOR ENHANCEMENT  
13 PROJECT APPROPRIATIONS.—There are authorized to be  
14 appropriated to the Secretary—

15 (1) \$1,500,000 for the investigation by the  
16 Yakima Indian Nation of measures to develop a  
17 Toppenish Creek Corridor Enhancement Project to  
18 demonstrate integration of management of agricul-  
19 tural, fish, wildlife, and cultural resources to meet  
20 tribal objectives; and

21 (2) such sums as the Secretary determines are  
22 necessary for the implementation and maintenance  
23 of a Toppenish Creek Corridor Enhancement  
24 Project.

1 (d) REPORT.—Not later than 5 years after the imple-  
2 mentation of the Irrigation Demonstration Project and the  
3 Toppenish Enhancement Project, the Secretary, in con-  
4 sultation with the Yakima Indian Nation, shall report to  
5 the Committee on Energy and Natural Resources of the  
6 Senate, the Committee on Natural Resources of the House  
7 of Representatives, and the Governor of the State of  
8 Washington on the effectiveness of the conservation, train-  
9 ing, mitigation, and other measures implemented.

10 (e) STATUS OF IMPROVEMENTS AND FACILITIES.—  
11 The Wapato Irrigation Project system improvements and  
12 any specific irrigation facility of the Irrigation Demonstra-  
13 tion Project and the Toppenish Enhancement Project shall  
14 be considered part of the Wapato Irrigation Project.

15 (f) TREATMENT OF CERTAIN COSTS.—Costs related  
16 to Wapato Irrigation Project improvements, the Irrigation  
17 Demonstration Project, and the Toppenish Enhancement  
18 Project shall be a Federal responsibility and shall be  
19 nonreimbursable.

20 **SEC. 6. OPERATION OF YAKIMA BASIN PROJECTS.**

21 (a) WATER SAVINGS FROM BASIN CONSERVATION  
22 PROGRAM.—

23 (1) INTENTION OF CONGRESS.—It is the inten-  
24 tion of Congress that the Basin Conservation Pro-  
25 gram shall result in reductions in water diversions

1 allowing for changes in the operation of the Yakima  
 2 Project, as in existence on the date of enactment of  
 3 this Act, to improve streamflow conditions in the  
 4 Yakima River basin.

5 (2) ESTIMATION OF WATER SUPPLY; FLOWS.—

6 (A) IN GENERAL.—The Secretary shall,  
 7 acting through the Yakima Project Super-  
 8 intendent—

9 (i) continue to estimate the water sup-  
 10 ply that is anticipated to be available to  
 11 meet water entitlements; and

12 (ii) provide instream flows in accord-  
 13 ance with the following criteria:

Water supply estimate for period (million acre feet):				Target flow from date of estimate thru October downstream of (cubic feet per second):	
April through September	May through September	June through September	July through September	Sunny-side Diversion Dam	Prosser Diversion Dam
(1) 3.2	2.9	2.4	1.9	600	600
(2) 2.9	2.65	2.2	1.7	500	500
(3) 2.65	2.4	2.0	1.5	400	400
Less than line 3 water supply				300	300.

14 (B) TARGET FLOWS.—The instream flows  
 15 referred to in subparagraph (A)(ii) shall, with  
 16 represent target flows at the respective points,  
 17 with reasonable fluctuations from the targets

1 flows anticipated in the operation of the Yak-  
2 ima Project.

3 (C) DEFINITION OF FULL SUPPLY.—As  
4 used in this section, the term “full supply”  
5 means the figures in the water supply columns  
6 referred to in subparagraph (A)(ii).

7 (3) INCREASE IN INSTREAM FLOWS.—The  
8 instream flows shall be increased for interim periods  
9 during April through October to facilitate, when nec-  
10 essary, the outward migration of anadromous fish.  
11 Increased instream flows for the interim periods  
12 shall be obtained through voluntary sale and leasing  
13 of water or water rights.

14 (4) REVIEW OF FALL SUPPLY.—

15 (A) IN GENERAL.—The Secretary, in co-  
16 operation with the Governor of the State of  
17 Washington, representatives of the Yakima In-  
18 dian Nation, and Yakima River basin irrigators  
19 shall, not less often than once every 5 years  
20 after the completion of the first measure of the  
21 Basin Conservation Program, review the compo-  
22 nents that comprise the full supply.

23 (B) ADJUSTMENTS.—If the actual supply  
24 reflects an increase in relation to the quantity  
25 required to meet irrigation water entitlements

1 and a reduction in water diversions that are at-  
2 tributed to the Basin Conservation Program,  
3 the full supply may be adjusted downward and  
4 the Yakima Project shall be operated by the  
5 Yakima Project Superintendent in accordance  
6 with the adjusted criteria.

7 (C) USE OF WATER SAVINGS.—Water sav-  
8 ings resulting from improvements to the  
9 Wapato Irrigation Project shall be available for  
10 use by the Yakima Indian Nation for irrigation  
11 and other purposes on the reservation and for  
12 the protection and enhancement of fish and  
13 wildlife within the Yakima River basin.

14 (5) EFFECT OF JUDICIAL ACTIONS.—Oper-  
15 ational procedures and processes in the Yakima  
16 River basin that have been or may be implemented  
17 through judicial actions shall not be affected by this  
18 Act.

19 (b) WATER FROM LAKE CLE ELUM.—Water accru-  
20 ing from the development of additional storage capacity  
21 at Lake Cle Elum, made available as a result of the modi-  
22 fications authorized in section 6(a), shall be considered a  
23 part of the water supply of the basin as provided in sub-  
24 section (a). Releases may be made from other Yakima  
25 Project storage facilities to most effectively utilize water

1 surpluses, except that water deliveries to holders of exist-  
2 ing water rights shall not be impaired.

3 (c) STATUS OF BASIN CONSERVATION PROGRAM FA-  
4 CILITIES.—

5 (1) INTEGRATION AND COORDINATION.—Meas-  
6 ures of the Basin Conservation Program that are  
7 implemented in connection with facilities under the  
8 administrative jurisdiction of the Secretary, except  
9 as provided in section 5, shall be considered part of  
10 the Yakima River Basin Water Enhancement  
11 Project, and the operation and maintenance of the  
12 Basin Conservation Program shall be integrated and  
13 coordinated with other features of the Yakima  
14 Project.

15 (2) OPERATION AND MAINTENANCE.—The re-  
16 sponsibility for operation and maintenance and the  
17 related costs of the facilities described in paragraph  
18 (1) shall remain with the operating entity. As appro-  
19 priate, the Secretary shall incorporate the operation  
20 and maintenance of the facilities into agreements.

21 (3) OPERATION.—The Secretary shall ensure  
22 that the facilities are operated in a manner consist-  
23 ent with Federal and State laws and in accordance  
24 with water rights recognized under Federal and  
25 State law.

1 (d) WATER ACQUIRED BY PURCHASE AND LEASE.—  
 2 Water acquired from voluntary sellers and lessors shall be  
 3 administered in accordance with the laws of the State of  
 4 Washington, including chapter 90.38 of the Revised Code  
 5 of Washington.

6 (e) APPROPRIATION FOR CHANDLER POWER CANAL  
 7 OPERATIONS.—There are authorized to be appropriated  
 8 to the Secretary \$480,000 for facilities to automate the  
 9 headgate, wasteways, and trashrack of the Chandler  
 10 Power Canal to maintain operating controls for the deliv-  
 11 ery of water to the Kennewick Division as the require-  
 12 ments of subsection (a) are implemented.

13 **SEC. 7. LAKE CLE ELUM AUTHORIZATION OF APPROPRIA-**  
 14 **TIONS.**

15 (a) MODIFICATIONS AND IMPROVEMENTS.—There  
 16 are authorized to be appropriated to the Secretary—

17 (1) \$2,934,000 to—

18 (A) modify the radial gates at Cle Elum  
 19 Dam to provide an additional 14,600 acre-feet  
 20 of storage capacity in Lake Cle Elum;

21 (B) provide for shoreline protection of  
 22 Lake Cle Elum; and

23 (C) construct juvenile fish passage facili-  
 24 ties at Cle Elum Dam; and



1           (3) LAWS OF WASHINGTON APPLICABLE.—The  
2 water supply for tributary enhancement shall be ad-  
3 ministered in accordance with the laws of the State  
4 of Washington.

5           (4) AVAILABILITY OF WATER SUPPLY.—Any en-  
6 hancement program shall be predicated upon the  
7 availability of a dependable water supply.

8           (b) STUDY.—

9           (1) MEASURES STUDIED.—The Secretary, after  
10 consultation with Governor of the State of Washing-  
11 ton, the tributary water rights owners, and rep-  
12 resentatives of the Yakima Indian Nation, and the  
13 agreement of appropriate water rights owners to  
14 participate, shall conduct a study concerning the  
15 measures that can be implemented to enhance water  
16 supplies for fish and wildlife and irrigation purposes  
17 on Taneum Creek, including—

18                   (A) water use efficiency improvements;

19                   (B) the conveyance of water from the Yak-  
20 ima Project through the facilities of any irriga-  
21 tion entity willing to contract with the Sec-  
22 retary without adverse impact to water users;

23                   (C) the construction, operation, and main-  
24 tenance of ground water withdrawal facilities;

1 (D) contracting with any entity that is  
2 willing to voluntarily limit or forego present  
3 water use through lease or sale of water or  
4 water rights on a temporary or permanent  
5 basis;

6 (E) the purchase of water rights from will-  
7 ing sellers; and

8 (F) other measures compatible with the  
9 purposes of this Act, including restoration of  
10 stream habitats.

11 (2) CONSIDERATION.—In conducting the  
12 Taneum Creek study, the Secretary shall consider—

13 (A) the hydrologic and environmental char-  
14 acteristics;

15 (B) the engineering and economic factors  
16 relating to each measure; and

17 (C) the potential effects on the operations  
18 of present water users in the tributary and  
19 measures to alleviate the effects.

20 (3) PUBLIC COMMENT.—

21 (A) IN GENERAL.—The Secretary shall  
22 make available to the public for a 45-day com-  
23 ment period a draft report describing in detail  
24 the findings, conclusions, and recommendations  
25 of the study.

1           (B) INCLUSION IN FINAL REPORT.—The  
2           Secretary shall consider and include any com-  
3           ment made in developing a final report.

4           (C) SUBMISSION OF FINAL REPORT.—The  
5           final report shall be submitted to the Commit-  
6           tee on Energy and Natural Resources of the  
7           Senate, the Committee on Natural Resources of  
8           the House of Representatives, and the Governor  
9           of the State of Washington, and shall be made  
10          available to the public.

11          (c) IMPLEMENTATION OF NONSTORAGE MEAS-  
12          URES.—After securing the necessary permits, the Sec-  
13          retary may, in cooperation with the head of the Depart-  
14          ment of Ecology of the State of Washington and in accord-  
15          ance with the laws of the State of Washington, implement  
16          nonstorage measures identified in the final report under  
17          subsection (b) upon fulfillment of the following conditions:

18               (1) The Secretary enters into an agreement  
19               with the appropriate water rights owners who are  
20               willing to participate, the Governor of the State of  
21               Washington, and representatives of the Yakima In-  
22               dian Nation, for the use and management of the  
23               water supply to be provided by proposed tributary  
24               measures pursuant to this section.

1           (2) The Secretary and the State of Washington  
2 finds that the implementation of the proposed tribu-  
3 tary measures will not impair the water rights of  
4 any person or entity in the affected tributary.

5           (d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—  
6 An enhancement program similar to the program de-  
7 scribed in this section may be investigated and imple-  
8 mented by the Secretary in other tributaries contingent  
9 upon the agreement of the appropriate tributary water  
10 right owners to participate. The requirements of this sec-  
11 tion shall be applicable to such other programs.

12           (e) AUTHORIZATION OF APPROPRIATIONS.—

13           (1) IN GENERAL.—Subject to paragraph (2),  
14 there are authorized to be appropriated to the Sec-  
15 retary—

16                   (A) \$500,000 for the study of the Taneum  
17 Creek Project;

18                   (B) such additional amounts as the Sec-  
19 retary subsequently determines are necessary  
20 for the implementation of tributary measures  
21 pursuant to this section; and

22                   (C) such sums as the Secretary determines  
23 are necessary for the investigation of similar  
24 enhancement programs in other Yakima River  
25 basin tributaries contingent upon the agreement

1 of the appropriate water right owners to partici-  
2 pate.

3 (2) INVESTIGATION REPORT.—Funds for the  
4 implementation of any enhancement program, other  
5 than the program described in this section, shall be  
6 appropriated to the Secretary following the submit-  
7 tal of an investigation report to the appropriate con-  
8 gressional committees.

9 **SEC. 9. ENVIRONMENTAL COMPLIANCE.**

10 (a) COMPLIANCE WITH THE NATIONAL ENVIRON-  
11 MENTAL POLICY ACT OF 1969.—Implementation of this  
12 Act is contingent upon compliance by the Secretary with  
13 the provisions of the National Environmental Policy Act  
14 of 1969 (42 U.S.C. 4321 et seq.).

15 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated to the Secretary  
17 \$2,000,000 for—

18 (1) environmental compliance activities, includ-  
19 ing the conduct, in cooperation with the Governor of  
20 the State of Washington, of an inventory of wildlife  
21 and wetland resources in the Yakima River basin;  
22 and

23 (2) an investigation of measures including wet-  
24 land banking, that may be implemented to address  
25 potential effects of actions taken under this Act.

1 **SEC. 10. SAVINGS PROVISIONS.**

2 Nothing in this Act shall be construed to—

3 (1) affect or modify any treaty or other right of  
4 the Yakima Indian Nation;

5 (2) authorize the appropriation or use of water  
6 by any Federal, State, or local agency, the Yakima  
7 Indian Nation, or any other entity or individual;

8 (3) impair the rights or jurisdictions of the  
9 Federal Government, the States, the Yakima Indian  
10 Nation, or other entities over waters of any river or  
11 stream or over any ground water resource;

12 (4) alter, amend, repeal, interpret, modify, or  
13 be in conflict with any interstate compact entered  
14 into by the States;

15 (5) alter, establish, or impair the respective  
16 rights of States, the United States, the Yakima In-  
17 dian Nation, or any other entity or individual with  
18 respect to any water or water-related right;

19 (6) alter, diminish, or abridge the rights and  
20 obligations of any Federal, State, or local agency,  
21 the Yakima Indian Nation, or other entity, public or  
22 private;

23 (7) affect or modify the rights of the Yakima  
24 Indian Nation or successors in interest to, and man-  
25 agement and regulation of, water resources arising

1 or used within the external boundaries of the Yak-  
 2 ima Indian Reservation;

3 (8) affect or modify the settlement agreement  
 4 between the United States and the State of Wash-  
 5 ington filed in Yakima County Superior Court with  
 6 regard to Federal reserved water rights other than  
 7 rights reserved by the United States for the benefit  
 8 of the Yakima Indian Nation and the members of  
 9 the Nation; or

10 (9) affect or modify the rights of any Federal,  
 11 State, or local agency, the Yakima Indian Nation, or  
 12 any other entity, with respect to any unresolved and  
 13 unsettled claim in any water right adjudication, or  
 14 court decision, including State against Acquavella,  
 15 or constitute evidence in any proceeding in which  
 16 any water or water-related right is adjudicated.

○

S 1411—O—2

S 1411—O—3

S 1411—O—4