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108TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 108–592

PROVIDING FOR CONSIDERATION OF H.R. 2828, WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

JULY 8, 2004.—Referred to the House Calendar and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 711]

The Committee on Rules, having had under consideration House Resolution 711, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2828, the Water Supply, Reliability, and Environmental Improvement Act, under a modified closed rule, providing one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill shall be considered as adopted. The rule waives all points of order against the bill, as amended.

The rule provides for consideration of the amendment in the nature of a substitute printed in this report, if offered by Representative Calvert of California or his designee, which shall be considered as read, and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and opponent. The rule waives all points of order against the amendment in the nature of a substitute printed in this report.

Finally, the rule provides one motion to recommit with or without instructions.

29–008

SUMMARY OF AMENDMENT IN THE NATURE OF A SUBSTITUTE MADE IN ORDER

(Summary derived from information provided by the amendment sponsor.)

1. Calvert/Pombo—Manager's Amendment. Modifies how ecosystem restoration plans are implemented. Requires more Congressional oversight of Calfed projects prior to federal expenditure. Makes several technical changes requested by the Administration. Addresses several concerns voiced by the Minority regarding the Environmental Water Account and Program Governance. (20 minutes)

TEXT OF AMENDMENT MADE IN ORDER

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Supply, Reliability, and Environmental Improvement Act".

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "California Water Security and Environmental Enhancement Act".

SEC. 102. DEFINITIONS.

In this title:

(1) CALFED BAY-DELTA PROGRAM.—The terms "Calfed Bay-Delta Program" and "Program" mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State and Federal Agencies in a manner consistent with the Record of Decision.

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

(3) ENVIRONMENTAL WATER ACCOUNT.—The term "Environmental Water Account" means the cooperative management program established under the Record of Decision.

(4) FEDERAL AGENCIES.—The term "Federal agencies" means—

(A) the Department of the Interior, including—

(i) the Bureau of Reclamation;

(ii) the United States Fish and Wildlife Service:

(iii) the Bureau of Land Management; and

(iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries service (also known as "NOAA Fisheries");

(E) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service;
(ii) the Forest Service; and
(F) the Western Area Power Administration.

(5) GOVERNOR.—The term "Governor" means the Governor of the State of California.

(6) RECORD OF DECISION.—The term "Record of Decision" means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) STATE.—The term "State" means the State of California.

(9) STATE AGENCIES.—The term "State agencies" means the California State agencies that are signatories to Attachment 3 of the Record of Decision.

(10) WATER YIELD.—The term "water yield" means a new quantity of water in storage that is reliably available in critically dry years for beneficial uses.

SEC. 103. BAY DELTA PROGRAM.

(a) IN GENERAL.—

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

(2) REQUIREMENTS.—In General.— The Secretary and the heads of the Federal agencies are authorized to carry out the activities under this title consistent with—

(A) the Record of Decision; and

(B) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage and conveyance) and water yield, and protecting Delta levees will progress in a balanced manner.

(b) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in paragraphs (2) through (5) in furtherance of the Calfed Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been:

(A) subject to environmental review and approval, as required under applicable Federal and State law; and

(B) approved and certified by the relevant Federal agency to be consistent with the Record of Decision and within the scope of the agency's authority under existing law.

(2) MULTIPLE BENEFIT PROJECTS FAVORED.—In selecting projects and programs for increasing water yield and water supply, improving water quality, and enhancing environmental benefits, projects and programs with multiple benefits shall be emphasized.

(3) BALANCE.—The Secretary shall ensure that all elements of the Calfed Bay-Delta Program need to be completed and op-

erated cooperatively to maintain the balanced progress in all Calfed Bay-Delta Program areas.

(4) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.—

(A) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in subparagraphs (A) through (J) of paragraph (5), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(B) THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency may carry out the activities described in subparagraphs (C), (E), (F), (G), (H), and (I) of paragraph (5), in furtherance of the Calfed Bay-Delta program, to the extent authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other laws in effect on the day before the date of enactment of this title.

(C) THE SECRETARY OF THE ARMY.—The Secretary of the Army may carry out the activities described in subparagraphs (B), (F), (G), (H), and (I) of paragraph (5), in furtherance of the CALFED Bay-Delta Program, to the extent authorized under flood control, water resource development, and other laws in effect on the day before the date of enactment of this title.

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

(E) SECRETARY OF AGRICULTURE.—The Secretary of Agriculture is authorized to carry out the activities described in subparagraphs (C), (E), (F), (G), (H), and (I) of paragraph (5), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(5) DESCRIPTION OF ACTIVITIES UNDER EXISTING AUTHORIZATIONS.—

(A) WATER STORAGE AND WATER YIELD.—Activities under this subparagraph consist of—

(i) FEASIBILITY STUDIES AND RESOLUTION.—

(I) For purposes of implementing the Calfed Bay-Delta Program, the Secretary is authorized to undertake all necessary planning activities and feasibility studies required for the development of recommendations by the Secretary to Congress on the construction and implementation of specific

water supply and water yield projects, and to conduct comprehensive water management planning.

(II) FEASIBILITY STUDIES REQUIREMENTS.—All feasibility studies completed for storage projects as a result of this section shall include identification of project benefits and beneficiaries and a cost allocation plan consistent with the benefits to be received, for both governmental and non-governmental entities.

(III) DISAPPROVAL RESOLUTION.—If the Secretary determines a project to be feasible, and meets the requirements under subparagraph (B), the report shall be submitted to Congress. If Congress does not pass a disapproval resolution of the feasibility study during the first 120 days before Congress (not including days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) the project shall be authorized, subject to appropriations.

(ii) WATER SUPPLY AND WATER YIELD STUDY.—The Secretary, acting through the Bureau of Reclamation and in consultation with the State, shall conduct a study of available water supplies and water yield and existing demand and future needs for water—

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

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

(III) within the Bay-Delta solution area.

(iii) RELATIONSHIP TO PRIOR STUDY.—The study under clause (ii) shall incorporate and revise as necessary the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102–575).

(iv) MANAGEMENT.—The Secretary shall conduct activities related to developing groundwater storage projects to the extent authorized under existing law.

(v) COMPREHENSIVE WATER PLANNING.—The Secretary shall conduct activities related to comprehensive water management planning to the extent authorized under existing law.

(vi) REPORT.—The Secretary shall submit a report to the congressional authorizing committees by not later than 180 days after the State's completion of the updated Bulletin 160 describing the following:

(I) Water yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors, including those identified in Bulletin 160.

(II) All water management actions or projects, including those identified in Bulletin 160, that

would improve water yield or water supply and that, if taken or constructed, would balance available water supplies and existing demand for those contractors and other water users of the Bay-Delta watershed with due recognition of water right priorities and environmental needs.

(III) The financial costs of the actions and projects described under clause (II).

(IV) The beneficiaries of those actions and projects and an assessment of their willingness to pay the capital costs and operation and maintenance costs thereof.

(B) CONVEYANCE.—

(i) SOUTH DELTA ACTIONS.—In the case of the South Delta, activities under this clause consist of the following:

(I) The South Delta Improvement Program through actions to accomplish the following:

(aa) Increase the State Water Project export limit to 8,500 cfs.

(bb) Install permanent, operable barriers in the south Delta. The Federal Agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the south Delta, with the intent to complete that installation not later than the end of fiscal year 2007.

(cc) Increase the State Water Project export to the maximum capability of 10,300 cfs.

(II) Reduction of agricultural drainage in south Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality.

(III) Evaluation of lower San Joaquin River floodway improvements.

(IV) Installation and operation of temporary barriers in the south Delta until fully operable barriers are constructed.

(V) Actions to protect navigation and local diversions not adequately protected by temporary barriers.

(VI) Actions to increase pumping shall be accomplished in a manner consistent with applicable law California and Federal protecting—

(aa) deliveries to, costs of, and water supplies for in-delta water users, including in-delta agricultural users that have historically relied on water diverted for use in the Delta;

(bb) the quality of water for existing municipal, industrial, and agricultural uses;

(cc) water supplies for areas of origin, and

(dd) Delta dependent native fish species.

(ii) NORTH DELTA ACTIONS.—In the case of the North Delta, activities under this clause consist of—

(I) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(II) evaluation of a screened through-Delta facility on the Sacramento River; and

(III) evaluation of lower Mokelumne River floodway improvements.

(iii) INTERTIES.—Activities under this clause consist of—

(I) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy; and

(II) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(iv) PROGRAM TO MEET STANDARDS.—Prior to increasing export limits from the Delta for the purposes of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, within one year of the date of enactment of this title, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the CVP has responsibility. In developing and implementing the program the Secretary shall include, to the maximum extent feasible, the following:

(I) A recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.

(II) The Secretary shall develop and implement a best management practices plan to reduce the impact of the discharges from wildlife refuges that receive water from the federal government and discharge salt or other constituents into the San Joaquin River. Such plan shall be developed in coordination with interested parties in the San Joaquin Valley and the Delta. The Secretary shall also coordinate activities with other entities that discharge water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.

(III) The acquisition from willing sellers of water from streams tributary to the San Joaquin River or other sources to provide flow, dilute discharges from wildlife refuges, and to improve water quality in the San Joaquin River below the confluence of the Merced and San Joaquin rivers and to reduce the reliance on New Melones Res-

ervoir for meeting water quality and fishery flow objectives.

(IV) Use of existing funding mechanisms.--In implementing the Program, the Secretary may use money collected pursuant to Section 3407 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4727) to acquire from voluntary sellers water from streams tributary to the San Joaquin River or other sources for the purposes set forth in subclauses (I) through (III) of clause (iv).

(V) The purpose of the authority and direction provided to the Secretary in clause (iv) is to provide greater flexibility in meeting the existing water quality standards and objectives for which the Central Valley Project has responsibility so as to reduce the demand on water from New Melones Reservoir used for that purpose and to allow the Secretary to meet with greater frequency the Secretary's obligations to Central Valley Project contractors from the New Melones Project. The Secretary shall update the New Melones operating plan to consider, among other things, the actions outlined in this Act designed to reduce the reliance on new Melones Reservoir for meeting water quality and fishery flow objectives and to insure that operation of New Melones Reservoir is governed by the best available science.

(C) WATER USE EFFICIENCY.—Activities under this subparagraph consist of—

(i) water conservation projects that provide water supply reliability, water quality,and ecosystem benefits to the Bay-Delta system;

(ii) technical assistance for urban and agricultural water conservation projects;

(iii) water recycling and desalination projects, including groundwater remediation projects and projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs;

(I) The Secretary shall review any feasibility level studies for seawater desalination and regional brine line projects that have been completed, whether or not those studies were prepared with financial assistance from the Secretary.

(II) The Secretary shall report to the Congress not later than 90 days after the completion of a feasibility study or the review of a feasibility study. For the purposes of this Act, the Secretary is authorized to provide assistance for projects as set forth and pursuant to the existing requirements of the Reclamation Wastewater and

Groundwater Study and Facilities Act (Public Law 102–9575; title 16) as amended, and Reclamation Recycling and Water Conservation Act of 1996 (Public Law 104–266).

(iv) water measurement and transfer actions;

(v) implementation of best management practices for urban water conservation;– and

(vi) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by section 1606 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–4); and the San Francisco Bay Area Regional Water Recycling Program described in the San Francisco Bay Area Regional Water Recycling Program Recycled Water Master Plan, dated December 1999 and authorized by section 1611 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–9) are determined to be feasible.

(D) WATER TRANSFERS.—Activities under this subparagraph consist of—

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

(ii) lowering transaction costs through regulatory coordination; and

(iii) maintaining a water transfer information clearinghouse.

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

(F) ECOSYSTEM RESTORATION.—

(i) ACTIVITIES UNDER THIS SUBPARAGRAPH CONSIST OF—

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

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

(III) fish screen and fish passage improvement projects; including the Sacramento River Small Diversion Fish Screen Program.

(IV) implementation of an invasive species program, including prevention, control, and eradication;

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

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

(VII) water quality improvement projects to manage and reduce concentrations of salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;

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

(IX) integrated flood management, ecosystem restoration, and levee protection projects;

(X) scientific evaluations and targeted research on Program activities; and

(XI) strategic planning and tracking of Program performance.

(ii) ANNUAL ECOSYSTEM PROGRAM PLAN.—

(I) Prior to October 1 of each year, with respect to an ecosystem restoration action carried out by or for the Secretary, the Secretary shall submit an annual ecosystem program plan report to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives. The purpose of the report is to describe the projects and programs to implement the activities under this subsection in the following fiscal year, and to establish priorities for funding in subsequent years. For the ecosystem program, and each ecosystem project the report shall describe—

(aa) the goals and objectives

(bb) program accomplishments,

(cc) major activities,

(dd) the administration responsibilities of land and water areas and associated environmental resources, in the affected project area including an accounting of all habitat types. Cost-share arrangements with cooperating agencies should be included in the report, and

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

(ff) implementation schedules and budgets;

(gg) monitoring programs and performance measures; and

(hh) the status and effectiveness of minimizing and mitigating the impacts of the program on agricultural lands.

(ii) a description of expected benefits of the restoration program relative to the cost.

(II) For Federal projects and programs to be carried out by or for the Secretary not specifically identified in the annual program plans the Secretary, in coordination with the State, shall submit recommendations on proposed plans, no later than 45 days prior to approval, to the Senate Committee on Energy and Natural Resources, the House Resources Committee, and the public. The recommendations shall—

(aa) describe the project selection process, including the level of public involvement and independent science review;

(bb) describe the goals, objectives, and implementation schedule of the projects, and the extent to which the projects address regional and programmatic goals and priorities;

(cc) describe the monitoring plans and performance measures that will be used for evaluating the performance of the proposed projects;

(dd) identify any cost-sharing arrangements with cooperating entities; and

(ee) identify how the proposed projects will comply with all applicable Federal and State laws, including the National Environmental Policy Act.

(III) Projects involving acquisition of private lands shall be included in subsection (I) of the Annual Ecosystem Program Plan. Each project identified shall—

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

(bb) minimize and mitigate impacts on agricultural lands;

(cc) include preliminary management plans for all properties to be acquired with Federal funds. Such preliminary management plans shall include an overview of existing conditions, the expected ecological benefits, preliminary cost estimates, and implementation schedules;

(dd) identify federal land acquisition in total, by a county by county basis; and,

(ee) provide a finding of consistency with all applicable State and Federal law.

(G) WATERSHEDS.—Activities under this subparagraph consist of—

(i) building local capacity to assess and manage watersheds affecting the Calfed Bay-Delta system;

(ii) technical assistance for watershed assessments and management plans; and

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

(H) WATER QUALITY.—Activities under this subparagraph consist of—

(i) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that reduce drainage and improve water quality) if—

(I) a plan is in place for monitoring downstream water quality improvements;

(II) State and local agencies are consulted on the activities to be funded; and

(III) except that no right, benefit, or privilege is created as a result of this clause;

(ii) implementation of source control programs in the Delta and its tributaries;

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

(iv) investing in treatment technology demonstration projects;

(v) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;

(vi) addressing water quality problems at the North Bay Aqueduct;

(vii) supporting and participating in the development of projects to enable San Francisco Area water districts and water entities in San Joaquin and Sacramento counties to work cooperatively to address their water quality and supply reliability issues, including—

(I) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and

(II) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be used to meet the objectives of this clause;

(viii) development of water quality exchanges and other programs to make high quality water available for urban and other users;

(ix) development and implementation of a plan to meet all water quality standards for which the Federal and State water projects have responsibility;

(x) development of recommendations through technical panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in water quality for all uses; and

(xi) projects that may meet the framework of the water quality component of the Calfed Bay-Delta Program.

(I) SCIENCE.—Activities under this subparagraph consist of—

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

(ii) conducting expert evaluations and scientific. assessments of all Program elements;

(iii) coordinating existing monitoring and scientific research programs;

(iv) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;

(v) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and

(vi) preparing an annual science report.

(J) DIVERSIFICATION OF WATER SUPPLIES.—Activities under this subparagraph consist of actions to diversify sources of level 2 refuge supplies and modes of delivery to refuges while maintaining the diversity of level 4 supplies pursuant to Central Valley Project Improvement Act section 3406(d)(2), Public Law 102–575 (106 Stat. 4723).

(6) NEW AND EXPANDED AUTHORIZATIONS FOR FEDERAL AGENCIES.—

(A) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in subparagraphs (A) , (B), (C) and (D) of paragraph (7) during each of fiscal years 2005 through 2008, in coordination with the State of California.

(B) THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARY OF THE ARMY.—The Administrator of the Environmental Protection Agency and the Secretary of the Army may carry out activities described in subparagraph (D) of paragraph 7 during each of fiscal years 2005 through 2008, in coordination with the State of California.

(C) THE SECRETARIES OF AGRICULTURE AND COMMERCE.—The Secretary of Commerce, and the Department of Agriculture, are authorized to carry out the activities described in paragraph (7)(D) during each of fiscal years 2005 through 2008, in coordination with the State of California.

(7) DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.—

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

(i) Feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project and increased capacity of the intertie between the SWP California Aqueduct and the CVP Delta Mendota Canal, near the City of Tracy.

(ii) Feasibility studies and actions at Franks Tract to improve water quality in the Delta.

(iii) Feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(iv) Design and construction of the relocation of drinking water intake facilities to delta water users. The Secretary shall coordinate actions for relocating intake facilities on a time schedule consistent with subparagraph (5)(B)(i)(I)(bb) or other actions necessary to offset the degradation of drinking water quality in the Delta due to the South Delta Improvement Program.

(v) In addition to the other authorizations granted to the Secretary by this title, the Secretary shall acquire water from willing sellers and undertake other actions designed to decrease releases from New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility in order to meet allocations to Central Valley Project contractors from the New Melones Project. The authorization under this provision is solely meant to add flexibility for the Secretary to meet the Secretary's obligation to the Central Valley Project contractors from the New Melones Project by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River. Of the amounts authorized to be appropriated under paragraph (7)(A), not more than $15,260,000 may be expended for this purpose.

(B) ENVIRONMENTAL WATER ACCOUNT.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended for implementation of the Environmental Water Account; *Provided* That such expenditures shall be considered a nonreimbursable Federal expenditure.

(C) LEVEE STABILITY.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended for—

(i) reconstructing Delta levees to a base level of protection;

(ii) enhancing the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects program;

(iii) developing best management practices to control and reverse land subsidence on Delta islands;

(iv) refining the Delta Emergency Management Plan;

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

(vi) developing a strategy for reuse of dredged materials on Delta islands;

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

(D) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—Of the amounts authorized to be appropriated

under section 109, not more than $25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

(i) program support;

(ii) program-wide tracking of schedules, finances, and performance;

(iii) multiagency oversight and coordination of Program activities to ensure Program balance and integration;

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

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

(vi) development of Annual Reports.

SEC. 104. MANAGEMENT.

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

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

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

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

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

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

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

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

(e) LAND ACQUISITION.—Federal funds appropriated by Congress specifically for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision and section 103(b)(5)(F)(ii)(I)(jj).

(f) AGENCIES' DISCRETION.—This title shall not affect the discretion of any of the Federal agencies or the State agencies or the authority granted to any of the Federal agencies or State agencies by any other Federal or State law.

(g) NO NEW AUTHORITY.—The United States Environmental Protection Agency and the United States Army Corps of Engineers.—

(1) IN GENERAL.—Nothing in this title confers any new authority, except as provided under section 103(b)(7)(D) to the United States Environmental Protection Agency and the United States Army Corps of Engineers.

(2) COORDINATION.—In carrying out activities identified in the Record of Decision under authorities provided under other provisions of law, the United States Environmental Protection Agency and the United States army Corps of Engineers shall coordinate such activities with Federal agencies and State agencies.

(h) GOVERNANCE.—

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

SEC. 105. REPORTING REQUIREMENTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in cooperation with the Governor, shall submit to the appropriate authorizing and appropriating Committees of the Senate and the House of Representatives a report that—

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

(B) sets forth any written determination resulting from the review required under subsection (b); and

(C) includes any revised schedule prepared under subsection (b).

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

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

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

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

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

(i) water storage, including water yield;

(ii) water quality; including the progress in achieving the water supply targets as described in Section 2.2.4 of the Record of Decision, the environmental water account requirements as described in Section 2.2.7, and the water quality targets as described in Section 2.2.9, and any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets and requirements.

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance; and

(ix) water supply reliability;

(E) program goals, current schedules, and relevant financing agreements;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

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

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

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;

(i) progress on project effectiveness;

(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;

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

(N) legislative action on—

(i) water transfer;

(ii) groundwater management;

(iii) water use efficiency; and

(iv) governance issues;

(O) the status of complementary actions;

(P) the status of mitigation measures;

(Q) revisions to funding commitments and Program responsibilities; and

(R) a list of all existing authorities, including the authorities listed in section 103(b)(4) provided by the relevant Federal agency, under which the Secretary or the heads of the Federal agencies may carry out the purposes of this title."

(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

(1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in cooperation with the Governor, shall review progress in implementing the Calfed Bay-Delta Program based on—

(A) consistency with the Record of Decision; and

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

(2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary, or the Governor, determine in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving

the goals and objectives of the Program is not occurring, the Secretary, in coordination with the Governor and the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all Calfed Bay-Delta Program elements consistent with the Record of Decision.

(c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this title shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

SEC. 106. CROSSCUT BUDGET.

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

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

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

(1) an interagency budget crosscut report that—

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

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

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

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

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under section 103(b).

SEC. 107. FEDERAL SHARE OF COSTS.

(a) IN GENERAL .—The Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2008 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

(b) CALFED BAY-DELTA PROGRAM BENEFICIARIES.—The Secretary shall ensure that all beneficiaries, including the environment, shall pay for benefits received from all projects or activities carried out under the Calfed Bay-Delta Program. This requirement shall not

be limited to storage and conveyance projects and shall be implemented so as to encourage integrated resource planning.

SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in this title—

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

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

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

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

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

SEC. 109. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in paragraphs (6) and (7) of section 103(b), $389,000,000 for the period of fiscal years 2005 through 2008, to remain available until expended.

TITLE II—SALTON SEA STUDY PROGRAM

SEC. 201. SALTON SEA STUDY PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study to determine the feasibility of reclaiming the Salton Sea.

(b) REQUIREMENTS.—The study referred to in subsection (a) shall consider each of the following:

(1) Appraisal investigations.

(2) Feasibility studies.

(3) Environmental Reports.

(4) Cost sharing responsibilities.

(5) Responsibility for operation and maintenance.

(c) REPORT TO CONGRESS.—The Secretary shall submit to Congress the study developed under this section no later than 1 year after the date of enactment.

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