

Subtitle J—California Water

SEC. 4001. OPERATIONS AND REVIEWS.

(a) WATER SUPPLIES.—The Secretary of the Interior and Secretary of Commerce shall provide the maximum quantity of water supplies practicable to Central Valley Project agricultural, municipal and industrial contractors, water service or repayment contractors, water rights settlement contractors, exchange contractors, refuge contractors, and State Water Project contractors, by approving, in accordance with applicable Federal and State laws (including regulations), operations or temporary projects to provide additional water supplies as quickly as possible, based on available information.

(b) ADMINISTRATION.—In carrying out subsection (a), the Secretary of the Interior and Secretary of Commerce shall, consistent with applicable laws (including regulations)—

(1) (A) in close coordination with the California Department of Water Resources and the California Department of Fish and Wildlife, implement a pilot project to test and evaluate the ability to operate the Delta cross-channel gates daily or as otherwise may be appropriate to keep them open to the greatest extent practicable to protect out-migrating salmonids, manage salinities in the interior Delta and any other water quality issues, and maximize Central Valley Project and State Water Project pumping, subject to the condition that the pilot project shall be designed and implemented consistent with operational criteria and monitoring criteria required by the California State Water Resources Control Board; and

(B) design, implement, and evaluate such real-time monitoring capabilities to enable effective real-time operations of the cross channel in order efficiently to meet the objectives described in subparagraph (A);

(2) with respect to the operation of the Delta cross-channel gates described in paragraph (1), collect data on the impact of that operation on—

(A) species listed as threatened or endangered under the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#));

(B) water quality; and

(C) water supply benefits;

(3) collaborate with the California Department of Water Resources to install a deflection barrier at Georgiana Slough and the Delta Cross Channel Gate to protect migrating salmonids, consistent with knowledge gained from activities carried out during 2014 and 2015;

(4) upon completion of the pilot project in paragraph (1), submit to the Senate Committees on Energy and Natural Resources and Environment and Public Works and the

House Committee on Natural Resources a written notice and explanation on the extent to which the gates are able to remain open and the pilot project achieves all the goals set forth in paragraphs (1) through (3);

(5) implement turbidity control strategies that may allow for increased water deliveries while avoiding jeopardy to adult Delta smelt (*Hypomesus transpacificus*);

(6) in a timely manner, evaluate any proposal to increase flow in the San Joaquin River through a voluntary sale, transfer, or exchange of water from an agency with rights to divert water from the San Joaquin River or its tributaries;

(7) adopt a 1:1 inflow to export ratio for the increment of increased flow, as measured as a 3-day running average at Vernalis during the period from April 1 through May 31, that results from the voluntary sale, transfer, or exchange, unless the Secretary of the Interior and Secretary of Commerce determine in writing that a 1:1 inflow to export ratio for that increment of increased flow will cause additional adverse effects on listed salmonid species beyond the range of the effects anticipated to occur to the listed salmonid species for the duration of the salmonid biological opinion using the best scientific and commercial data available; and subject to the condition that any individual sale, transfer, or exchange using a 1:1 inflow to export ratio adopted under the authority of this section may only proceed if—

(A) the Secretary of the Interior determines that the environmental effects of the proposed sale, transfer, or exchange are consistent with effects permitted under applicable law (including the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)), the Federal Water Pollution Control Act ([33 U.S.C. 1381 et seq.](#)), and the Porter-Cologne Water Quality Control Act (California Water Code 13000 et seq.));

(B) Delta conditions are suitable to allow movement of the acquired, transferred, or exchanged water through the Delta consistent with existing Central Valley Project and State Water Project permitted water rights and the requirements of subsection (a)(1)(H) of the Central Valley Project Improvement Act; and

(C) such voluntary sale, transfer, or exchange of water results in flow that is in addition to flow that otherwise would occur in the absence of the voluntary sale, transfer, or exchange;

(8) (A) issue all necessary permit decisions during emergency consultation under the authority of the Secretary of the Interior and Secretary of Commerce not later than 60 days after receiving a completed application by the State to place and use temporary barriers or operable gates in Delta channels to improve water quantity and quality for State Water Project and Central Valley Project south-of-Delta water contractors and other water users, which barriers or gates shall provide benefits for species protection and in-Delta water user water quality, provided that they are designed so that, if practicable, formal consultations under section 7 of the Endangered Species Act of 1973 ([16 U.S.C. 1536](#)) are not necessary; and

(B) take longer to issue the permit decisions in subparagraph (A) only if the Secretary determines in writing that an Environmental Impact Statement is needed for the proposal to comply with the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#));

(9) allow and facilitate, consistent with existing priorities, water transfers through the C.W. “Bill” Jones Pumping Plant or the Harvey O. Banks Pumping Plant from April 1 to November 30;

(10) require the Director of the United States Fish and Wildlife Service and the Commissioner of Reclamation to—

(A) determine if a written transfer proposal is complete within 30 days after the date of submission of the proposal. If the contracting district or agency or the Secretary determines that the proposal is incomplete, the district or agency or the Secretary shall state with specificity what must be added to or revised for the proposal to be complete;

(B) complete all requirements under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)) and the Endangered Species Act of 1973 (16 U.S.C. et seq.) necessary to make final permit decisions on water transfer requests in the State, not later than 45 days after receiving a completed request;

(C) take longer to issue the permit decisions in subparagraph (B) only if the Secretary determines in writing that an Environmental Impact Statement is needed for the proposal to comply with the National Environmental Policy Act of 1969 (42 U.S.C. et seq.), or that the application is incomplete pursuant to subparagraph (A); and

(D) approve any water transfer request described in subparagraph (A) to maximize the quantity of water supplies on the condition that actions associated with the water transfer are consistent with—

(i) existing Central Valley Project and State Water Project permitted water rights and the requirements of section 3405(a)(1)(H) of the Central Valley Project Improvement Act; and

(ii) all other applicable laws and regulations;

(11) in coordination with the Secretary of Agriculture, enter into an agreement with the National Academy of Sciences to conduct a comprehensive study, to be completed not later than 1 year after the date of enactment of this subtitle, on the effectiveness and environmental impacts of salt cedar biological control efforts on increasing water supplies and improving riparian habitats of the Colorado River and its principal tributaries, in the State of California and elsewhere;

(12) pursuant to the research and adaptive management procedures of the smelt biological opinion and the salmonid biological opinion use all available scientific tools to identify any changes to the real-time operations of Bureau of Reclamation, State, and local water projects that could result in the availability of additional water supplies; and

(13) determine whether alternative operational or other management measures would meet applicable regulatory requirements for listed species while maximizing water supplies and water supply reliability; and

(14) continue to vary the averaging period of the Delta Export/Inflow ratio, to the extent consistent with any applicable State Water Resources Control Board orders under decision D-1641, to operate to a

(A) ratio using a 3-day averaging period on the rising limb of a Delta inflow hydrograph; and

(B) 14-day averaging period on the falling limb of the Delta inflow hydrograph.

(c) OTHER AGENCIES.—To the extent that a Federal agency other than the Department of the Interior and the Department of Commerce has a role in approving projects described in subsections (a) and (b), this section shall apply to the Federal agency.

(d) ACCELERATED PROJECT DECISION AND ELEVATION.—

(1) IN GENERAL.—On request of the Governor of California, the Secretary of the Interior and Secretary of Commerce shall use the expedited procedures under this subsection to make final decisions relating to Federal or federally approved projects or operational changes proposed pursuant to subsections (a) and (b) to provide additional water supplies or otherwise address emergency drought conditions.

(2) REQUEST FOR RESOLUTION.—Not later than 7 days after receiving a request of the Governor of California, the Secretaries referred to in paragraph (1), or the head of another Federal agency responsible for carrying out a review of a project, as applicable, the Secretary of the Interior shall convene a final project decision meeting with the heads of all relevant Federal agencies to decide whether to approve a project to provide emergency water supplies or otherwise address emergency drought condition.

(3) NOTIFICATION.—Upon receipt of a request for a meeting under this subsection, the Secretary of the Interior shall notify the heads of all relevant Federal agencies of the request, including a description of the project to be reviewed and the date for the meeting.

(4) DECISION.—Not later than 10 days after the date on which a meeting is requested under paragraph (2), the head of the relevant Federal agency shall issue a final decision on the project.

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

(3) LIMITATION.—The expedited procedures under this subsection apply only to—

(A) proposed new Federal projects or operational changes pursuant to subsection (a) or (b); and

(B) the extent they are consistent with applicable laws (including regulations).

(e) OPERATIONS PLAN.—The Secretaries of Commerce and the Interior, in consultation with appropriate State officials, shall develop an operations plan that is consistent with the provisions of this subtitle and other applicable Federal and State laws, including provisions that are intended to provide additional water supplies that could be of assistance during the current drought.

SEC. 4002. SCIENTIFICALLY SUPPORTED IMPLEMENTATION OF OMR FLOW REQUIREMENTS.

(a) IN GENERAL.—In implementing the provisions of the smelt biological opinion and the salmonid biological opinion, the Secretary of the Interior and the Secretary of Commerce shall manage reverse flow in Old and Middle Rivers at the most negative reverse flow rate allowed under the applicable biological opinion to maximize water supplies for the Central Valley Project and the State Water Project, unless that management of reverse flow in Old and Middle Rivers to maximize water supplies would cause additional adverse effects on the listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, or would be inconsistent with applicable State law requirements, including water quality, salinity control, and compliance with State Water Resources Control Board Order D-1641 or a successor order.

(b) REQUIREMENTS.—If the Secretary of the Interior or Secretary of Commerce determines to manage rates of pumping at the C.W. “Bill” Jones and the Harvey O. Banks pumping plants in the southern Delta to achieve a reverse OMR flow rate less negative than the most negative reverse flow rate prescribed by the applicable biological opinion, the Secretary shall—

(1) document in writing any significant facts regarding real-time conditions relevant to the determinations of OMR reverse flow rates, including—

(A) targeted real-time fish monitoring in the Old River pursuant to this section, including as it pertains to the smelt biological opinion monitoring of Delta smelt in the vicinity of Station 902;

(B) near-term forecasts with available salvage models under prevailing conditions of the effects on the listed species of OMR flow at the most negative reverse flow rate prescribed by the biological opinion; and

(C) any requirements under applicable State law; and

(2) explain in writing why any decision to manage OMR reverse flow at rates less negative than the most negative reverse flow rate prescribed by the biological opinion is necessary to avoid additional adverse effects on the listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, after considering relevant factors such as—

(A) the distribution of the listed species throughout the Delta;

(B) the potential effects of high entrainment risk on subsequent species abundance;

(C) the water temperature;

(D) other significant factors relevant to the determination, as required by applicable Federal or State laws;

(E) turbidity; and

(F) whether any alternative measures could have a substantially lesser water supply impact.

(c) LEVEL OF DETAIL REQUIRED.—The analyses and documentation required by this section shall be comparable to the depth and complexity as is appropriate for real time decision-making. This section shall not be interpreted to require a level of administrative findings and documentation that could impede the execution of effective real time adaptive management.

(d) FIRST SEDIMENT FLUSH.—During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, notwithstanding subsection (a), the Secretary of the Interior shall manage OMR flow pursuant to the provisions of the smelt biological opinion that protects adult Delta smelt from the first flush if required to do so by the smelt biological opinion.

(e) CONSTRUCTION.—The Secretary of the Interior and the Secretary of Commerce are authorized to implement subsection (a) consistent with the results of monitoring through Early Warning Surveys to make real time operational decisions consistent with the current applicable biological opinion.

(f) CALCULATION OF REVERSE FLOW IN OMR.—Within 180 days of the enactment of this subtitle, the Secretary of the Interior is directed, in consultation with the California Department of Water Resources, and consistent with the smelt biological opinion and the salmonid biological opinion, to review, modify, and implement, if appropriate, the method used to calculate reverse flow in Old and Middle Rivers, for implementation of the reasonable and prudent alternatives in

the smelt biological opinion and the salmonid biological opinion, and any succeeding biological opinions.

SEC. 4003. TEMPORARY OPERATIONAL FLEXIBILITY FOR STORM EVENTS.

(a) IN GENERAL.—

(1) Nothing in this subtitle authorizes additional adverse effects on listed species beyond the range of the effects anticipated to occur to the listed species for the duration of the smelt biological opinion or salmonid biological opinion, using the best scientific and commercial data available.

(2) When consistent with the environmental protection mandate in paragraph (1) while maximizing water supplies for Central Valley Project and State Water Project contractors, the Secretary of the Interior and the Secretary of Commerce, through an operations plan, shall evaluate and may authorize the Central Valley Project and the State Water Project, combined, to operate at levels that result in OMR flows more negative than the most negative reverse flow rate prescribed by the applicable biological opinion (based on United States Geological Survey gauges on Old and Middle Rivers) daily average as described in subsections (b) and (c) to capture peak flows during storm-related events.

(b) FACTORS TO BE CONSIDERED.—In determining additional adverse effects on any listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the smelt biological opinion or salmonid biological opinion, using the best scientific and commercial data available, the Secretaries of the Interior and Commerce may consider factors including:

(1) The degree to which the Delta outflow index indicates a higher level of flow available for diversion.

(2) Relevant physical parameters including projected inflows, turbidity, salinities, and tidal cycles.

(3) The real-time distribution of listed species.

(c) OTHER ENVIRONMENTAL PROTECTIONS.—

(1) STATE LAW.—The actions of the Secretary of the Interior and the Secretary of Commerce under this section shall be consistent with applicable regulatory requirements under State law.

(2) FIRST SEDIMENT FLUSH.—During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, the Secretary of the Interior shall manage OMR flow pursuant to the portion of the smelt

biological opinion that protects adult Delta smelt from the first flush if required to do so by the smelt biological opinion.

(3) **APPLICABILITY OF OPINION.**—This section shall not affect the application of the salmonid biological opinion from April 1 to May 31, unless the Secretary of Commerce finds that some or all of such applicable requirements may be adjusted during this time period to provide emergency water supply relief without resulting in additional adverse effects on listed salmonid species beyond the range of the effects anticipated to occur to the listed salmonid species for the duration of the salmonid biological opinion using the best scientific and commercial data available. In addition to any other actions to benefit water supply, the Secretary of the Interior and the Secretary of Commerce shall consider allowing through-Delta water transfers to occur during this period if they can be accomplished consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act and other applicable law. Water transfers solely or exclusively through the State Water Project are not required to be consistent with subsection (a)(1)(H) of the Central Valley Project Improvement Act.

(4) **MONITORING.**—During operations under this section, the Commissioner of Reclamation, in coordination with the Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife, shall undertake expanded monitoring programs and other data gathering to improve the efficiency of operations for listed species protections and Central Valley Project and State Water Project water supply to ensure incidental take levels are not exceeded, and to identify potential negative impacts, if any.

(d) **EFFECT OF HIGH OUTFLOWS.**—When exercising their authorities to capture peak flows pursuant to subsection (c), the Secretary of the Interior and the Secretary of Commerce shall not count such days toward the 5-day and 14-day running averages of tidally filtered daily Old and Middle River flow requirements under the smelt biological opinion and salmonid biological opinion, unless doing so is required to avoid additional adverse effects on listed fish species beyond those anticipated to occur through implementation of the smelt biological opinion and salmonid biological opinion using the best scientific and commercial data available.

(e) **LEVEL OF DETAIL REQUIRED FOR ANALYSIS.**—In articulating the determinations required under this section, the Secretary of the Interior and the Secretary of Commerce shall fully satisfy the requirements herein but shall not be expected to provide a greater level of supporting detail for the analysis than feasible to provide within the short timeframe permitted for timely real-time decisionmaking in response to changing conditions in the Delta.

SEC. 4004. CONSULTATION ON COORDINATED OPERATIONS.

(a) **RESOLUTION OF WATER RESOURCE ISSUES.**—In furtherance of the policy established by section 2(c)(2) of the Endangered Species Act of 1973, that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species, in any consultation or reconsultation on the coordinated operations of the Central Valley Project and the State Water Project, the Secretaries of the Interior and Commerce

shall ensure that any public water agency that contracts for the delivery of water from the Central Valley Project or the State Water Project that so requests shall—

(1) have routine and continuing opportunities to discuss and submit information to the action agency for consideration during the development of any biological assessment;

(2) be informed by the action agency of the schedule for preparation of a biological assessment;

(3) be informed by the consulting agency, the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, of the schedule for preparation of the biological opinion at such time as the biological assessment is submitted to the consulting agency by the action agency;

(4) receive a copy of any draft biological opinion and have the opportunity to review that document and provide comment to the consulting agency through the action agency, which comments will be afforded due consideration during the consultation;

(5) have the opportunity to confer with the action agency and applicant, if any, about reasonable and prudent alternatives prior to the action agency or applicant identifying one or more reasonable and prudent alternatives for consideration by the consulting agency; and

(6) where the consulting agency suggests a reasonable and prudent alternative be informed—

(A) how each component of the alternative will contribute to avoiding jeopardy or adverse modification of critical habitat and the scientific data or information that supports each component of the alternative; and

(B) why other proposed alternative actions that would have fewer adverse water supply and economic impacts are inadequate to avoid jeopardy or adverse modification of critical habitat.

(b) INPUT.—When consultation is ongoing, the Secretaries of the Interior and Commerce shall regularly solicit input from and report their progress to the Collaborative Adaptive Management Team and the Collaborative Science and Adaptive Management Program policy group. The Collaborative Adaptive Management Team and the Collaborative Science and Adaptive Management Program policy group may provide the Secretaries with recommendations to improve the effects analysis and Federal agency determinations. The Secretaries shall give due consideration to the recommendations when developing the Biological Assessment and Biological Opinion.

(c) MEETINGS.—The Secretaries shall establish a quarterly stakeholder meeting during any consultation or reconsultation for the purpose of providing updates on the development of the

Biological Assessment and Biological Opinion. The quarterly stakeholder meeting shall be open to stakeholders identified by the Secretaries representing a broad range of interests including environmental, recreational and commercial fishing, agricultural, municipal, Delta, and other regional interests, and including stakeholders that are not state or local agencies.

(d) CLARIFICATION.—Neither subsection (b) or (c) of this section may be used to meet the requirements of subsection (a).

(e) NON-APPLICABILITY OF FACCA.—For the purposes of subsection (b), the Collaborative Adaptive Management Team, the Collaborative Science and Adaptive Management Program policy group, and any recommendations made to the Secretaries, are exempt from the Federal Advisory Committee Act.

SEC. 4005. PROTECTIONS.

(a) APPLICABILITY.—This section shall apply only to sections 4001 through 4006.

(b) OFFSET FOR STATE WATER PROJECT.—

(1) IMPLEMENTATION IMPACTS.—The Secretary of the Interior shall confer with the California Department of Fish and Wildlife in connection with the implementation of the applicable provisions of this subtitle on potential impacts to any consistency determination for operations of the State Water Project issued pursuant to California Fish and Game Code section 2080.1.

(2) ADDITIONAL YIELD.—If, as a result of the application of the applicable provisions of this subtitle, the California Department of Fish and Wildlife—

(A) determines that operations of the State Water Project are inconsistent with the consistency determinations issued pursuant to California Fish and Game Code section 2080.1 for operations of the State Water Project; or

(B) requires take authorization under California Fish and Game Code section 2081 for operation of the State Water Project;

in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion; and as a result, Central Valley Project yield is greater than it otherwise would have been, then that additional yield shall be made available to the State Water Project for delivery to State Water Project contractors to offset that reduced water supply, provided that if it is necessary to reduce water supplies for any Central Valley Project authorized uses or contractors to make available to the State Water Project that additional yield, such reductions shall be applied proportionately to those uses or contractors that benefit from that increased yield.

(3) NOTIFICATION RELATED TO ENVIRONMENTAL PROTECTIONS.—The Secretary of the Interior and Secretary of Commerce shall—

(A) notify the Director of the California Department of Fish and Wildlife regarding any changes in the manner in which the smelt biological opinion or the salmonid biological opinion is implemented; and

(B) confirm that those changes are consistent with the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)).

(4) SAVINGS.—Nothing in the applicable provisions of this subtitle shall have any effect on the application of the California Endangered Species Act (California Fish and Game Code sections 2050 through 2116).

(c) AREA OF ORIGIN AND WATER RIGHTS PROTECTIONS.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Commerce, in carrying out the mandates of the applicable provisions of this subtitle, shall take no action that—

(A) diminishes, impairs, or otherwise affects in any manner any area of origin, watershed of origin, county of origin, or any other water rights protection, including rights to water appropriated before December 19, 1914, provided under State law;

(B) limits, expands or otherwise affects the application of section 10505, 10505.5, 11128, 11460, 11461, 11462, 11463 or 12200 through 12220 of the California Water Code or any other provision of State water rights law, without respect to whether such a provision is specifically referred to in this section; or

(C) diminishes, impairs, or otherwise affects in any manner any water rights or water rights priorities under applicable law.

(2) EFFECT OF ACT.—

(A) Nothing in the applicable provisions of this subtitle affects or modifies any obligation of the Secretary of the Interior under section 8 of the Act of June 17, 1902 (32 Stat. 390, chapter 1093).

(B) Nothing in the applicable provisions of this subtitle diminishes, impairs, or otherwise affects in any manner any Project purposes or priorities for the allocation, delivery or use of water under applicable law, including the Project purposes and priorities established under section 3402 and section 3406 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706).

(d) NO REDIRECTED ADVERSE IMPACTS.—

(1) IN GENERAL.—The Secretary of the Interior and Secretary of Commerce shall not carry out any specific action authorized under the applicable provisions of this subtitle that would directly or through State agency action indirectly result in the involuntary reduction of water supply to an individual, district, or agency that has in effect a contract for water with the State Water Project or the Central Valley Project, including Settlement and Exchange contracts, refuge contracts, and Friant Division contracts, as compared to the water supply that would be provided in the absence of action under this subtitle, and nothing in this section is intended to modify, amend or affect any of the rights and obligations of the parties to such contracts.

(2) ACTION ON DETERMINATION.—If, after exploring all options, the Secretary of the Interior or the Secretary of Commerce makes a final determination that a proposed action under the applicable provisions of this subtitle cannot be carried out in accordance with paragraph (1), that Secretary—

(A) shall document that determination in writing for that action, including a statement of the facts relied on, and an explanation of the basis, for the decision; and

(B) is subject to applicable law, including the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)).

(e) ALLOCATIONS FOR SACRAMENTO VALLEY WATER SERVICE CONTRACTORS.—

(1) DEFINITIONS.—In this subsection:

(A) EXISTING CENTRAL VALLEY PROJECT AGRICULTURAL WATER SERVICE CONTRACTOR WITHIN THE SACRAMENTO RIVER WATERSHED.—The term “existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed” means any water service contractor within the Shasta, Trinity, or Sacramento River division of the Central Valley Project that has in effect a water service contract on the date of enactment of this subtitle that provides water for irrigation.

(B) YEAR TERMS.—The terms “Above Normal”, “Below Normal”, “Dry”, and “Wet”, with respect to a year, have the meanings given those terms in the Sacramento Valley Water Year Type (40–30–30) Index.

(2) ALLOCATIONS OF WATER.—

(A) ALLOCATIONS.—Subject to paragraph (3), the Secretary of the Interior shall make every reasonable effort in the operation of the Central Valley Project to

allocate water provided for irrigation purposes to each existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in accordance with the following:

(i) Not less than 100 percent of the contract quantity of the existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in a “Wet” year.

(ii) Not less than 100 percent of the contract quantity of the existing Central Valley Project agricultural water service Contractor within the Sacramento River Watershed in an “Above Normal” year.

(iii) Not less than 100 percent of the contract quantity of the existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in a “Below Normal” year that is preceded by an “Above Normal” or “Wet” year.

(iv) Not less than 50 percent of the contract quantity of the existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in a “Dry” year that is preceded by a “Below Normal”, “Above Normal”, or “Wet” year.

(v) In any other year not identified in any of clauses (i) through (iv), not less than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors, up to 100 percent.

(B) EFFECT OF CLAUSE.—In the event of anomalous circumstances, nothing in clause (A)(v) precludes an allocation to an existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed that is greater than twice the allocation percentage to a south-of-Delta Central Valley Project agricultural water service contractor.

(3) PROTECTION OF ENVIRONMENT, MUNICIPAL AND INDUSTRIAL SUPPLIES, AND OTHER CONTRACTORS.—

(A) ENVIRONMENT.—Nothing in paragraph (2) shall adversely affect any protections for the environment, including—

(i) the obligation of the Secretary of the Interior to make water available to managed wetlands pursuant to section 3406(d) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4722); or

(ii) any obligation—

(I) of the Secretary of the Interior and the Secretary of Commerce under the smelt biological opinion, the salmonid biological opinion, or any other applicable biological opinion; including the Shasta Dam cold water pool requirements as set forth in the salmonid biological opinion or any other applicable State or Federal law (including regulations); or

(II) under the Endangered Species Act of 1973 (16 U.S.C. et seq.), the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706), or any other applicable State or Federal law (including regulations).

(B) MUNICIPAL AND INDUSTRIAL SUPPLIES.—Nothing in paragraph (2) shall—

(i) modify any provision of a water service contract that addresses municipal or industrial water shortage policies of the Secretary of the Interior and the Secretary of Commerce;

(ii) affect or limit the authority of the Secretary of the Interior and the Secretary of Commerce to adopt or modify municipal and industrial water shortage policies;

(iii) affect or limit the authority of the Secretary of the Interior and the Secretary of Commerce to implement a municipal or industrial water shortage policy;

(iv) constrain, govern, or affect, directly or indirectly, the operations of the American River division of the Central Valley Project or any deliveries from that division or a unit or facility of that division; or

(v) affects any allocation to a Central Valley Project municipal or industrial water service contractor by increasing or decreasing allocations to the contractor, as compared to the allocation the contractor would have received absent paragraph (2).

(C) OTHER CONTRACTORS.—Nothing in paragraph (2) shall—

(i) affect the priority of any individual or entity with a Sacramento River settlement contract over water service or repayment contractors;

(ii) affect the obligation of the United States to make a substitute supply of water available to the San Joaquin River exchange contractors;

(iii) affect the allocation of water to Friant division contractors of the Central Valley Project;

(iv) result in the involuntary reduction in contract water allocations to individuals or entities with contracts to receive water from the Friant division;

(v) result in the involuntary reduction in water allocations to refuge contractors; or

(vi) authorize any actions inconsistent with State water rights law.

SEC. 4006. NEW MELONES RESERVOIR.

The Commissioner is directed to work with local water and irrigation districts in the Stanislaus River Basin to ascertain the water storage made available by the Draft Plan of Operations in New Melones Reservoir (DRPO) for water conservation programs, conjunctive use projects, water transfers, rescheduled project water and other projects to maximize water storage and ensure the beneficial use of the water resources in the Stanislaus River Basin. All such programs and projects shall be implemented according to all applicable laws and regulations. The source of water for any such storage program at New Melones Reservoir shall be made available under a valid water right, consistent with the State water transfer guidelines and any other applicable State water law. The Commissioner shall inform the Congress within 18 months setting forth the amount of storage made available by the DRPO that has been put to use under this program, including proposals received by the Commissioner from interested parties for the purpose of this section.

SEC. 4007. STORAGE.

(a) DEFINITIONS.—In this subtitle:

(1) **FEDERALLY OWNED STORAGE PROJECT.**—The term “federally owned storage project” means any project involving a surface water storage facility in a Reclamation State—

(A) to which the United States holds title; and

(B) that was authorized to be constructed, operated, and maintained pursuant to the reclamation laws.

(2) **STATE-LED STORAGE PROJECT.**—The term “State-led storage project” means any project in a Reclamation State that—

(A) involves a groundwater or surface water storage facility constructed, operated, and maintained by any State, department of a State, subdivision of a State, or public agency organized pursuant to State law; and

(B) provides a benefit in meeting any obligation under Federal law (including regulations).

(b) **FEDERALLY OWNED STORAGE PROJECTS.**—

(1) **AGREEMENTS.**—On the request of any State, any department, agency, or subdivision of a State, or any public agency organized pursuant to State law, the Secretary of the Interior may negotiate and enter into an agreement on behalf of the United States for the design, study, and construction or expansion of any federally owned storage project in accordance with this section.

(2) **FEDERAL COST SHARE.**—Subject to the requirements of this subsection, the Secretary of the Interior may participate in a federally owned storage project in an amount equal to not more than 50 percent of the total cost of the federally owned storage project.

(3) **COMMENCEMENT.**—The construction of a federally owned storage project that is the subject of an agreement under this subsection shall not commence until the Secretary of the Interior—

(A) determines that the proposed federally owned storage project is feasible in accordance with the reclamation laws;

(B) secures an agreement providing upfront funding as is necessary to pay the non-Federal share of the capital costs; and

(C) determines that, in return for the Federal cost-share investment in the federally owned storage project, at least a proportionate share of the project benefits are Federal benefits, including water supplies dedicated to specific purposes such as environmental enhancement and wildlife refuges.

(4) **ENVIRONMENTAL LAWS.**—In participating in a federally owned storage project under this subsection, the Secretary of the Interior shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)).

(c) **STATE-LED STORAGE PROJECTS.**—

(1) **IN GENERAL.**—Subject to the requirements of this subsection, the Secretary of the Interior may participate in a State-led storage project in an amount equal to not more than 25 percent of the total cost of the State-led storage project.

(2) **REQUEST BY GOVERNOR.**—Participation by the Secretary of the Interior in a State-led storage project under this subsection shall not occur unless—

(A) the participation has been requested by the Governor of the State in which the State-led storage project is located;

(B) the State or local sponsor determines, and the Secretary of the Interior concurs, that—

(i) the State-led storage project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws;

(ii) sufficient non-Federal funding is available to complete the State-led storage project; and

(iii) the State-led storage project sponsors are financially solvent;

(C) the Secretary of the Interior determines that, in return for the Federal cost-share investment in the State-led storage project, at least a proportional share of the project benefits are the Federal benefits, including water supplies dedicated to specific purposes such as environmental enhancement and wildlife refuges; and

(D) the Secretary of the Interior submits to Congress a written notification of these determinations within 30 days of making such determinations.

(3) ENVIRONMENTAL LAWS.—When participating in a State-led storage project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)).

(4) INFORMATION.—When participating in a State-led storage project under this subsection, the Secretary of the Interior—

(A) may rely on reports prepared by the sponsor of the State-led storage project, including feasibility (or equivalent) studies, environmental analyses, and other pertinent reports and analyses; but

(B) shall retain responsibility for making the independent determinations described in paragraph (2).

(d) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Interior may provide financial assistance under this subtitle to carry out projects within any Reclamation State.

(e) RIGHTS TO USE CAPACITY.—Subject to compliance with State water rights laws, the right to use the capacity of a federally owned storage project or State-led storage project for which the Secretary of the Interior has entered into an agreement under this subsection shall be allocated in such manner as may be mutually agreed to by the Secretary of the Interior and each other party to the agreement.

(f) COMPLIANCE WITH CALIFORNIA WATER BOND.—

(1) IN GENERAL.—The provision of Federal funding for construction of a State-led storage project in the State of California shall be subject to the condition that the California Water Commission shall determine that the State-led storage project is consistent with the California Water Quality, Supply, and Infrastructure Improvement Act, approved by California voters on November 4, 2014.

(2) APPLICABILITY.—This subsection expires on the date on which State bond funds available under the Act referred to in paragraph (1) are expended.

(g) PARTNERSHIP AND AGREEMENTS.—The Secretary of the Interior, acting through the Commissioner, may partner or enter into an agreement regarding the water storage projects identified in section 103(d)(1) of the Water Supply, Reliability, and Environmental Improvement Act ([Public Law 108–361](#); 118 Stat. 1688) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) \$335,000,000 of funding in section 4011(e) is authorized to remain available until expended.

(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to this section and transmits such recommendations to the appropriate committees of Congress.

(i) SUNSET.—This section shall apply only to federally owned storage projects and State-led storage projects that the Secretary of the Interior determines to be feasible before January 1, 2021.

(j) CONSISTENCY WITH STATE LAW.—Nothing in this section preempts or modifies any obligation of the United States to act in conformance with applicable State law.

(k) CALFED AUTHORIZATION.—Title I of [Public Law 108–361](#) (the Calfed Bay-Delta Authorization Act) (118 Stat. 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat. 2312) (as amended by section 207 of [Public Law 114–113](#)) is amended by striking “2017” each place it appears and inserting “2019”.

SEC. 4008. LOSSES CAUSED BY THE CONSTRUCTION AND OPERATION OF STORAGE PROJECTS.

(a) MARINAS, RECREATIONAL FACILITIES, OTHER BUSINESSES.—If in constructing any new or modified water storage project included in section 103(d)(1)(A) of [Public Law 108–361](#) (118 Stat. 1684), the Bureau of Reclamation destroys or otherwise adversely affects any existing marina, recreational facility, or other water-dependent business when constructing or operating a

new or modified water storage project, the Secretaries of the Interior and Agriculture, acting through the Bureau and the Forest Service shall—

(1) provide compensation otherwise required by law; and

(2) provide the owner of the affected marina, recreational facility, or other water-dependent business under mutually agreeable terms and conditions with the right of first refusal to construct and operate a replacement marina, recreational facility, or other water-dependent business, as the case may be, on United States land associated with the new or modified water storage project.

(b) HYDROELECTRIC PROJECTS.—If in constructing any new or modified water storage project included in section 103(d)(1)(A) of [Public Law 108–361](#) (118 Stat. 1684), the Bureau of Reclamation reduces or eliminates the capacity or generation of any existing non-Federal hydroelectric project by inundation or otherwise, the Secretary of the Interior shall, subject to the requirements and limitations of this section—

(1) provide compensation otherwise required by law;

(2) provide the owner of the affected hydroelectric project under mutually agreeable terms and conditions with a right of first refusal to construct, operate, and maintain replacement hydroelectric generating facilities at such new or modified water storage project on Federal land associated with the new or modified water storage project or on private land owned by the affected hydroelectric project owner;

(3) provide compensation for the construction of any water conveyance facilities as are necessary to convey water to any new powerhouse constructed by such owner in association with such new hydroelectric generating facilities;

(4) provide for paragraphs (1), (2), and (3) at a cost not to exceed the estimated value of the actual impacts to any existing non-Federal hydroelectric project, including impacts to its capacity and energy value, and as estimated for the associated feasibility study, including additional planning, environmental, design, construction, and operations and maintenance costs for existing and replacement facilities; and

(5) ensure that action taken under paragraphs (1), (2), (3), and (4) shall not directly or indirectly increase the costs to recipients of power marketed by the Western Area Power Administration, nor decrease the value of such power.

(c) EXISTING LICENSEE.—The owner of any project affected under subsection (b)(2) shall be deemed the existing licensee, in accordance with section 15(a) of the Act of June 10, 1920 ([16 U.S.C. 808\(a\)](#)), for any replacement project to be constructed within the proximate geographic area of the affected project.

(d) COST ALLOCATION.—

(1) COMPENSATION.—Any compensation under this section shall be a project cost allocated solely to the direct beneficiaries of the new or modified water project constructed under this section.

(2) REPLACEMENT COSTS.—The costs of the replacement project, and any compensation, shall be—

(A) treated as a stand-alone project and shall not be financially integrated in any other project; and

(B) allocated in accordance with mutually agreeable terms between the Secretary and project beneficiaries.

(e) APPLICABILITY.—This section shall only apply to federally owned water storage projects whether authorized under section 4007 or some other authority.

(f) LIMITATION.—Nothing in this section affects the ability of landowners or Indian tribes to seek compensation or any other remedy otherwise provided by law.

(g) SAVINGS CLAUSE.—No action taken under this section shall directly or indirectly increase the costs to recipients of power marketed by the Western Area Power Administration, nor decrease the value of such power.

SEC. 4009. OTHER WATER SUPPLY PROJECTS.

(a) WATER DESALINATION ACT AMENDMENTS.—Section 4 of the Water Desalination Act of 1996 ([42 U.S.C. 10301](#) note; [Public Law 104–298](#)) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

“(1) PROJECTS.—

“(A) IN GENERAL.—Subject to the requirements of this subsection, the Secretary of the Interior may participate in an eligible desalination project in an amount equal to not more than 25 percent of the total cost of the eligible desalination project.

“(B) ELIGIBLE DESALINATION PROJECT.—The term ‘eligible desalination project’ means any project in a Reclamation State, that—

“(i) involves an ocean or brackish water desalination facility either constructed, operated and maintained; or sponsored by any State, department of a State, subdivision of a State or public agency organized pursuant to a State law; and

“(ii) provides a Federal benefit in accordance with the reclamation laws (including regulations).

“(C) STATE ROLE.—Participation by the Secretary of the Interior in an eligible desalination project under this subsection shall not occur unless—

“(i) the project is included in a state-approved plan or federal participation has been requested by the Governor of the State in which the eligible desalination project is located; and

“(ii) the State or local sponsor determines, and the Secretary of the Interior concurs, that—

“(I) the eligible desalination project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws;

“(II) sufficient non-Federal funding is available to complete the eligible desalination project; and

“(III) the eligible desalination project sponsors are financially solvent; and

“(iii) the Secretary of the Interior submits to Congress a written notification of these determinations within 30 days of making such determinations.

“(D) ENVIRONMENTAL LAWS.—When participating in an eligible desalination project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)).

“(E) INFORMATION.—When participating in an eligible desalination project under this subsection, the Secretary of the Interior—

“(i) may rely on reports prepared by the sponsor of the eligible desalination project, including feasibility (or equivalent) studies, environmental analyses, and other pertinent reports and analyses; but

“(ii) shall retain responsibility for making the independent determinations described in subparagraph (C).

“(F) AUTHORIZATION OF APPROPRIATIONS.—

“(i) \$30,000,000 of funding is authorized to remain available until expended; and

“(ii) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to this subsection and transmits such recommendations to the appropriate committees of Congress.”.

(c) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102–575; 43 U.S.C. 390h et. seq.) is amended by adding at the end the following new subsections:

(e) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—

(1) SUBMISSION TO THE SECRETARY.—

(A) IN GENERAL.—Non-Federal interests may submit proposals for projects eligible to be authorized pursuant to this section in the form of completed feasibility studies to the Secretary.

(B) ELIGIBLE PROJECTS.—A project shall be considered eligible for consideration under this section if the project reclaims and reuses—

(i) municipal, industrial, domestic, or agricultural wastewater; or

(ii) impaired ground or surface waters.

(C) GUIDELINES.—Within 60 days of the enactment of this Act the Secretary shall issue guidelines for feasibility studies for water recycling and reuse projects to provide sufficient information for the formulation of the studies.

(2) REVIEW BY THE SECRETARY.—The Secretary shall review each feasibility study received under paragraph (1)(A) for the purpose of—

“(A) determining whether the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water recycling and reuse projects; and

“(B) the project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws.

“(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study received under paragraph (1)(A), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

“(A) the results of the Secretary’s review of the study under paragraph (2), including a determination of whether the project is feasible;

“(B) any recommendations the Secretary may have concerning the plan or design of the project; and

“(C) any conditions the Secretary may require for construction of the project.

“(4) ELIGIBILITY FOR FUNDING.—The non-Federal project sponsor of any project determined by the Secretary to be feasible under paragraph (3)(A) shall be eligible to apply to the Secretary for funding for the Federal share of the costs of planning, designing and constructing the project pursuant to subsection (f).

“(f) COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING AND REUSE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program under which the non-Federal project sponsor of any project determined by the Secretary to be feasible under subsection (e)(3)(A) shall be eligible to apply for funding for the planning, design, and construction of the project, subject to subsection (g)(2).

“(2) PRIORITY.—When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet one or more of the criteria listed in paragraph (3) and are located in an area that—

“(A) has been identified by the United States Drought Monitor as experiencing severe, extreme, or exceptional drought at any time in the 4-year period before such funds are made available; or

“(B) was designated as a disaster area by a State during the 4-year period before such funds are made available.

“(3) CRITERIA.—The project criteria referred to in paragraph (2) are the following:

“(A) Projects that are likely to provide a more reliable water supply for States and local governments.

“(B) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.

“(C) Projects that are regional in nature.

“(D) Projects with multiple stakeholders.

“(E) Projects that provide multiple benefits, including water supply reliability, eco-system benefits, groundwater management and enhancements, and water quality improvements.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) There is authorized to be appropriated to the Secretary of the Interior an additional \$50,000,000 to remain available until expended.

“(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to subsection (f) and transmits such recommendations to the appropriate committees of Congress.”.

(d) FUNDING.—Section 9504 of the Omnibus Public Land Management Act of 2009 ([42 U.S.C. 10364](#)) is amended in subsection (e) by striking “\$350,000,000” and inserting “\$450,000,000” on the condition that of that amount, \$50,000,000 of it is used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriation Act, 2015 ([43 U.S.C. 620](#) note; [Public Law 113–235](#)).

SEC. 4010. ACTIONS TO BENEFIT THREATENED AND ENDANGERED SPECIES AND OTHER WILDLIFE.

(a) INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE.—

(1) SMELT BIOLOGICAL OPINION.—The Director shall use the best scientific and commercial data available to implement, continuously evaluate, and refine or amend, as appropriate, the reasonable and prudent alternative described in the smelt biological opinion.

(2) INCREASED MONITORING TO INFORM REAL-TIME OPERATIONS.—

(A) IN GENERAL.—The Secretary of the Interior shall conduct additional surveys, on an annual basis at the appropriate time of year based on environmental conditions, in collaboration with interested stakeholders regarding the science of the Delta in general, and to enhance real time decisionmaking in particular, working in close coordination with relevant State authorities.

(B) REQUIREMENTS.—In carrying out this subsection, the Secretary of the Interior shall use—

(i) the most appropriate and accurate survey methods available for the detection of Delta smelt to determine the extent to which adult Delta smelt are distributed in relation to certain levels of turbidity or other environmental factors that may influence salvage rate;

(ii) results from appropriate surveys for the detection of Delta smelt to determine how the Central Valley Project and State Water Project may be operated more efficiently to maximize fish and water supply benefits; and

(iii) science-based recommendations developed by any of the persons or entities described in paragraph (4)(B) to inform the agencies' real-time decisions.

(C) WINTER MONITORING.—During the period between December 1 and March 31, if suspended sediment loads enter the Delta from the Sacramento River, and the suspended sediment loads appear likely to raise turbidity levels in the Old River north of the export pumps from values below 12 Nephelometric Turbidity Units (NTUs) to values above 12 NTUs, the Secretary of the Interior shall—

(i) conduct daily monitoring using appropriate survey methods at locations including the vicinity of Station 902 to determine the extent to which adult Delta smelt are moving with turbidity toward the export pumps; and

(ii) use results from the monitoring under subparagraph (A) to determine how increased trawling can inform daily real-time Central Valley Project and State Water Project operations to maximize fish and water supply benefits.

(3) PERIODIC REVIEW OF MONITORING.—Not later than 1 year after the date of enactment of this subtitle, the Secretary of the Interior shall—

(A) evaluate whether the monitoring program under paragraph (2), combined with other monitoring programs for the Delta, is providing sufficient data to inform Central Valley Project and State Water Project operations to maximize the water supply for fish and water supply benefits; and

(B) determine whether the monitoring efforts should be changed in the short or long term to provide more useful data.

(4) DELTA SMELT DISTRIBUTION STUDY.—

(A) IN GENERAL.—Not later than March 15, 2021, the Secretary of the Interior shall—

(i) complete studies, to be initiated by not later than 90 days after the date of enactment of this subtitle, designed—

(I) to understand the location and determine the abundance and distribution of Delta smelt throughout the range of the Delta smelt; and

(II) to determine potential methods to minimize the effects of Central Valley Project and State Water Project operations on the Delta smelt;

(ii) based on the best available science, if appropriate and practicable, implement new targeted sampling and monitoring of Delta smelt in order to maximize fish and water supply benefits prior to completion of the study under clause (i);

(iii) to the maximum extent practicable, use new technologies to allow for better tracking of Delta smelt, such as acoustic tagging, optical recognition during trawls, and fish detection using residual deoxyribonucleic acid (DNA); and

(iv) if new sampling and monitoring is not implemented under clause (ii), provide a detailed explanation of the determination of the Secretary of the Interior that no change is warranted.

(B) CONSULTATION.—In determining the scope of the studies under this subsection, the Secretary of the Interior shall consult with—

(i) Central Valley Project and State Water Project water contractors and public water agencies;

(ii) other public water agencies;

(iii) the California Department of Fish and Wildlife and the California Department of Water Resources; and

(iv) nongovernmental organizations.

(b) ACTIONS TO BENEFIT ENDANGERED FISH POPULATIONS.—

(1) FINDINGS.—Congress finds that—

(A) minimizing or eliminating stressors to fish populations and their habitat in an efficient and structured manner is a key aspect of a fish recovery strategy;

(B) functioning, diverse, and interconnected habitats are necessary for a species to be viable; and

(C) providing for increased fish habitat may not only allow for a more robust fish recovery, but also reduce impacts to water supplies.

(2) ACTIONS FOR BENEFIT OF ENDANGERED SPECIES.—There is authorized to be appropriated the following amounts:

(A) \$15,000,000 for the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, to carry out the following activities in accordance with the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)):

(i) Gravel and rearing area additions and habitat restoration to the Sacramento River to benefit Chinook salmon and steelhead trout.

(ii) Scientifically improved and increased real-time monitoring to inform real-time operations of Shasta and related Central Valley Project facilities, and alternative methods, models, and equipment to improve temperature modeling and related forecasted information for purposes of predicting impacts to salmon and salmon habitat as a result of water management at Shasta.

(iii) Methods to improve the Delta salvage systems, including alternative methods to redeposit salvaged salmon smolts and other fish from the Delta in a manner that reduces predation losses.

(B) \$3,000,000 for the Secretary of the Interior to conduct the Delta smelt distribution study referenced in subsection (a)(4).

(3) COMMENCEMENT.—If the Administrator of the National Oceanic and Atmospheric Administration determines that a proposed activity is feasible and beneficial for protecting and recovering a fish population, the Administrator shall commence implementation of the activity by not later than 1 year after the date of enactment of this subtitle.

(4) CONSULTATION.—The Administrator shall take such steps as are necessary to partner with, and coordinate the efforts of, the Department of the Interior, the Department of Commerce, and other relevant Federal departments and agencies to ensure that all Federal reviews, analyses, opinions, statements, permits, licenses, and other approvals or decisions required under Federal law are completed on an expeditious basis, consistent with Federal law.

(5) CONSERVATION FISH HATCHERIES.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subtitle, the Secretaries of the Interior and Commerce, in coordination with the Director of the California Department of Fish and Wildlife, shall develop and implement as necessary the expanded use of conservation hatchery programs to enhance, supplement, and rebuild Delta smelt and Endangered Species Act-listed fish species under the smelt and salmonid biological opinions.

(B) REQUIREMENTS.—The conservation hatchery programs established under paragraph (1) and the associated hatchery and genetic management plans shall be designed—

(i) to benefit, enhance, support, and otherwise recover naturally spawning fish species to the point where the measures provided under the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)) are no longer necessary; and

(ii) to minimize adverse effects to Central Valley Project and State Water Project operations.

(C) PRIORITY; COOPERATIVE AGREEMENTS.—In implementing this section, the Secretaries of the Interior and Commerce—

(i) shall give priority to existing and prospective hatchery programs and facilities within the Delta and the riverine tributaries thereto; and

(ii) may enter into cooperative agreements for the operation of conservation hatchery programs with States, Indian tribes, and other nongovernmental entities for the benefit, enhancement, and support of naturally spawning fish species.

(6) ACQUISITION OF LAND, WATER, OR INTERESTS FROM WILLING SELLERS FOR ENVIRONMENTAL PURPOSES IN CALIFORNIA.—

(A) IN GENERAL.—The Secretary of the Interior is authorized to acquire by purchase, lease, donation, or otherwise, land, water, or interests in land or water from willing sellers in California—

(i) to benefit listed or candidate species under the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)) or the California Endangered Species Act (California Fish and Game Code sections 2050 through 2116);

(ii) to meet requirements of, or otherwise provide water quality benefits under, the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)) or the Porter Cologne Water Quality Control Act (division 7 of the California Water Code); or

(iii) for protection and enhancement of the environment, as determined by the Secretary of the Interior.

(B) STATE PARTICIPATION.—In implementing this section, the Secretary of the Interior is authorized to participate with the State of California or otherwise hold such interests identified in subparagraph (A) in joint ownership with the State of California based on a cost share deemed appropriate by the Secretary.

(C) TREATMENT.—Any expenditures under this subsection shall be nonreimbursable and nonreturnable to the United States.

(7) REAUTHORIZATION OF THE FISHERIES RESTORATION AND IRRIGATION MITIGATION ACT OF 2000.—

(A) Section 10(a) of the Fisheries Restoration and Irrigation Mitigation Act of 2000 ([16 U.S.C. 777](#) note; [Public Law 106–502](#)) is amended by striking “\$25 million for each of fiscal years 2009 through 2015” and inserting “\$15 million through 2021”; and

(B) Section 2 of the Fisheries Restoration and Irrigation Mitigation Act of 2000 ([16 U.S.C. 777](#) note; [Public Law 106–502](#)) is amended by striking “Montana, and Idaho” and inserting “Montana, Idaho, and California”.

(c) ACTIONS TO BENEFIT REFUGES.—

(1) IN GENERAL.—In addition to funding under section 3407 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4726), there is authorized to be appropriated to the Secretary of the Interior \$2,000,000 for each of fiscal years 2017 through 2021 for the acceleration and completion of water infrastructure and conveyance facilities necessary to achieve full water deliveries to Central Valley wildlife refuges and habitat areas pursuant to section 3406(d) of that Act (Public Law 102–575; 106 Stat. 4722).

(2) COST SHARING.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity described in this section shall be not more than 50 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out an activity described in this section—

(i) shall be not less than 50 percent; and

(ii) may be provided in cash or in kind.

(d) NON-FEDERAL PROGRAM TO PROTECT NATIVE ANADROMOUS FISH IN STANISLAUS RIVER.—

(1) DEFINITION OF DISTRICT.—In this section, the term “district” means—

(A) the Oakdale Irrigation District of the State of California; and

(B) the South San Joaquin Irrigation District of the State of California.

(2) ESTABLISHMENT.—The Secretary of Commerce, acting through the Assistant Administrator of the National Marine Fisheries Service, and the districts shall jointly establish and conduct a nonnative predator research and pilot fish removal program to study the effects of removing from the Stanislaus River—

(A) nonnative striped bass, smallmouth bass, largemouth bass, black bass; and

(B) other nonnative predator fish species.

(3) REQUIREMENTS.—The program under this section shall—

(A) be scientifically based, with research questions determined jointly by—

(i) National Marine Fisheries Service scientists; and

(ii) technical experts of the districts;

(B) include methods to quantify by, among other things, evaluating the number of juvenile anadromous fish that migrate past the rotary screw trap located at Caswell—

(i) the number and size of predator fish removed each year; and

(ii) the impact of the removal on—

(I) the overall abundance of predator fish in the Stanislaus River; and

(II) the populations of juvenile anadromous fish in the Stanislaus River;

(C) among other methods, consider using wire fyke trapping, portable resistance board weirs, and boat electrofishing; and

(D) be implemented as quickly as practicable after the date of issuance of all necessary scientific research permits.

(4) MANAGEMENT.—The management of the program shall be the joint responsibility of the Assistant Administrator and the districts, which shall—

(A) work collaboratively to ensure the performance of the program; and

(B) discuss and agree on, among other things—

(i) qualified scientists to lead the program;

(ii) research questions;

(iii) experimental design;

(iv) changes in the structure, management, personnel, techniques, strategy, data collection and access, reporting, and conduct of the program; and

(v) the need for independent peer review.

(5) CONDUCT.—

(A) IN GENERAL.—For each applicable calendar year, the districts, on agreement of the Assistant Administrator, may elect to conduct the program under this section using—

(i) the personnel of the Assistant Administrator or districts;

(ii) qualified private contractors hired by the districts;

(iii) personnel of, on loan to, or otherwise assigned to the National Marine Fisheries Service; or

(iv) a combination of the individuals described in clauses (i) through (iii).

(B) PARTICIPATION BY NATIONAL MARINE FISHERIES SERVICE.—

(i) IN GENERAL.—If the districts elect to conduct the program using district personnel or qualified private contractors hired under clause (i) or (ii) of subparagraph (A), the Assistant Administrator may assign an employee of, on loan to, or otherwise assigned to the National Marine Fisheries Service, to be present for all activities performed in the field to ensure compliance with paragraph (4).

(ii) COSTS.—The districts shall pay the cost of participation by the employee under clause (i), in accordance with paragraph (6).

(C) TIMING OF ELECTION.—The districts shall notify the Assistant Administrator of an election under subparagraph (A) by not later than October 15 of the calendar year preceding the calendar year for which the election applies.

(6) FUNDING.—

(A) IN GENERAL.—The districts shall be responsible for 100 percent of the cost of the program.

(B) CONTRIBUTED FUNDS.—The Secretary of Commerce may accept and use contributions of funds from the districts to carry out activities under the program.

(C) ESTIMATION OF COST.—

(i) IN GENERAL.—Not later than December 1 of each year of the program, the Secretary of Commerce shall submit to the districts an estimate of the cost to be incurred by the National Marine Fisheries Service for the program during the following calendar year, if any, including the cost of any data collection and posting under paragraph (7).

(ii) FAILURE TO FUND.—If an amount equal to the estimate of the Secretary of Commerce is not provided through contributions pursuant to subparagraph (B) before December 31 of that calendar year—

(I) the Secretary shall have no obligation to conduct the program activities otherwise scheduled for the following calendar year until the amount is contributed by the districts; and

(II) the districts may not conduct any aspect of the program until the amount is contributed by the districts.

(D) ACCOUNTING.—

(i) IN GENERAL.—Not later than September 1 of each year, the Secretary of Commerce shall provide to the districts an accounting of the costs incurred by the Secretary for the program during the preceding calendar year.

(ii) EXCESS AMOUNTS.—If the amount contributed by the districts pursuant to subparagraph (B) for a calendar year was greater than the costs incurred by the Secretary of Commerce during that year, the Secretary shall—

(I) apply the excess amounts to the cost of activities to be performed by the Secretary under the program, if any, during the following calendar year; or

(II) if no such activities are to be performed, repay the excess amounts to the districts.

(7) PUBLICATION AND EVALUATION OF DATA.—

(A) IN GENERAL.—All data generated through the program, including by any private consultants, shall be routinely provided to the Assistant Administrator.

(B) INTERNET.—Not later than the 15th day of each month of the program, the Assistant Administrator shall publish on the Internet website of the National Marine Fisheries Service a tabular summary of the raw data collected under the program during the preceding month.

(C) REPORT.—On completion of the program, the Assistant Administrator shall prepare a final report evaluating the effectiveness of the program, including recommendations for future research and removal work.

(8) CONSISTENCY WITH LAW.—

(A) IN GENERAL.—The programs in this section and subsection (e) are found to be consistent with the requirements of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706).

(B) LIMITATION.—No provision, plan, or definition under that Act, including section 3406(b)(1) of that Act (Public Law 102–575; 106 Stat. 4714), shall be used—

(i) to prohibit the implementation of the programs in this subsection and subsection (e); or

(ii) to prevent the accomplishment of the goals of the programs.

(e) PILOT PROJECTS TO IMPLEMENT CALFED INVASIVE SPECIES PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 2018, the Secretary of the Interior, in collaboration with the Secretary of Commerce, the Director of the California Department of Fish and Wildlife, and other relevant agencies and interested parties, shall establish and carry out pilot projects to implement the invasive species control program under section 103(d)(6)(A)(iv) of [Public Law 108–361](#) (118 Stat. 1690).

(2) REQUIREMENTS.—The pilot projects under this section shall—

(A) seek to reduce invasive aquatic vegetation (such as water hyacinth), predators, and other competitors that contribute to the decline of native listed pelagic and anadromous species that occupy the Sacramento and San Joaquin Rivers and their tributaries and the Delta; and

(B) remove, reduce, or control the effects of species including Asiatic clams, silversides, gobies, Brazilian water weed, largemouth bass, smallmouth bass, striped bass, crappie, bluegill, white and channel catfish, zebra and quagga mussels, and brown bullheads.

(3) EMERGENCY ENVIRONMENTAL REVIEWS.—To expedite environmentally beneficial programs in this subtitle for the conservation of threatened and endangered species, the Secretaries of the Interior and Commerce shall consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (or successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)) for those programs.

(f) COLLABORATIVE PROCESSES.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.) and applicable Federal acquisitions and contracting authorities, the Secretaries of the Interior and Commerce may use the collaborative processes under the Collaborative Science Adaptive Management Program to enter into contracts with specific individuals or organizations directly or in conjunction with appropriate State agencies.

(g) THE “SAVE OUR SALMON ACT”.—

(1) TREATMENT OF STRIPED BASS.—

(A) ANADROMOUS FISH.—Section 3403(a) of the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) is amended by striking “striped bass,” after “stocks of salmon (including steelhead),”.

(B) FISH AND WILDLIFE RESTORATION ACTIVITIES.—Section 3406(b) of the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) is amended by—

(i) striking paragraphs (14) and (18);

(ii) redesignating paragraphs (15) through (17) as paragraphs (14) through (16), respectively; and

(iii) redesignating paragraphs (19) through (23) as paragraphs (17) through (21), respectively.

(2) CONFORMING CHANGES.—Section 3407(a) of the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) is amended by striking “(10)–(18), and (20)–(22)” and inserting “(10)–(16), and (18)–(20)”.

SEC. 4011. OFFSETS AND WATER STORAGE ACCOUNT.

(a) PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND CONTRACTORS OF FEDERALLY DEVELOPED WATER SUPPLIES.—

(1) CONVERSION AND PREPAYMENT OF CONTRACTS.—Upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions. The manner of conversion under this paragraph shall be as follows:

(A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195).

(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).

(2) PREPAYMENT.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, all repayment contracts under section 9(d) of that Act (53 Stat. 1195) in effect on the date of enactment of this subtitle at the request of the contractor, and all contracts converted pursuant to paragraph (1)(A) shall—

(A) provide for the repayment, either in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project specific irrigation rate repayment schedules, as adjusted to reflect payment not reflected in such schedules, and properly assignable for ultimate return by the contractor, or if made in

approximately equal installments, no later than 3 years after the effective date of the repayment contract, such amount to be discounted by ½ the Treasury rate. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days following receipt of request of the contractor;

(B) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) continue so long as the contractor pays applicable charges, consistent with section 9(d) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(3) **CONTRACT REQUIREMENTS.**—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, the following shall apply with regard to all repayment contracts under subsection (c)(1) of section 9 of that Act (53 Stat. 1195) in effect on the date of enactment of this subtitle at the request of the contractor, and all contracts converted pursuant to paragraph (1)(B):

(A) Provide for the repayment in lump sum of the remaining construction costs identified in water project specific municipal and industrial rate repayment schedules, as adjusted to reflect payments not reflected in such schedules, and properly assignable for ultimate return by the contractor. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days after receipt of the request of contractor.

(B) The contract shall require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law.

(C) Continue so long as the contractor pays applicable charges, consistent with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(4) CONDITIONS.—All contracts entered into pursuant to paragraphs (1), (2), and (3) shall—

(A) not be adjusted on the basis of the type of prepayment financing used by the water users' association;

(B) conform to any other agreements, such as applicable settlement agreements and new constructed appurtenant facilities; and

(C) not modify other water service, repayment, exchange and transfer contractual rights between the water users' association, and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association and their landowners as provided under State law.

(b) ACCOUNTING.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary shall credit such overpayment as an offset against any outstanding or future obligation of the contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Public Law 102–575.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) EFFECT OF EXISTING LAW.—Upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs pursuant to a contract entered into pursuant to subsection (a)(2)(A), subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(2) EFFECT OF OTHER OBLIGATIONS.—The obligation of a contractor to repay construction costs or other capitalized costs described in subsection (a)(2)(B), (a)(3)(B), or (b) shall not affect a contractor's status as having repaid all of the construction costs assignable to the contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the amount required to be paid by the contractor under the repayment contract entered into pursuant to subsection (a)(2)(A) has been paid.

(d) EFFECT ON EXISTING LAW NOT ALTERED.—Implementation of the provisions of this subtitle shall not alter—

(1) the repayment obligation of any water service or repayment contractor receiving water from the same water project, or shift any costs that would otherwise have been properly assignable to the water users' association identified in subsections (a)(1), (a)(2), and (a)(3) absent this section, including operation and maintenance costs, construction costs, or other capitalized costs incurred after the date of the enactment of this subtitle, or to other contractors; and

(2) specific requirements for the disposition of amounts received as repayments by the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act ([43 U.S.C. 371 et seq.](#));

(3) the priority of a water service or repayment contractor to receive water; or

(4) except as expressly provided in this section, any obligations under the reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Public Law 102-575), of the water service and repayment contractors making prepayments pursuant to this section.

(e) WATER STORAGE ENHANCEMENT PROGRAM.—

(1) IN GENERAL.—Except as provided in subsection (d)(2), \$335,000,000 out of receipts generated from prepayment of contracts under this section beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the date of enactment of this Act shall be directed to the Reclamation Water Storage Account under paragraph (2).

(2) STORAGE ACCOUNT.—The Secretary shall allocate amounts collected under paragraph (1) into the “Reclamation Storage Account” to fund the construction of water storage. The Secretary may also enter into cooperative agreements with water users' associations for the construction of water storage and amounts within the Storage Account may be used to fund such construction. Water storage projects that are otherwise not federally authorized shall not be considered Federal facilities as a result of any amounts allocated from the Storage Account for part or all of such facilities.

(3) REPAYMENT.—Amounts used for water storage construction from the Account shall be fully reimbursed to the Account consistent with the requirements under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act ([43 U.S.C. 371 et seq.](#))) except that all funds reimbursed shall be deposited in the Account established under paragraph (2).

(4) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Account under this subsection shall—

(A) be made available in accordance with this section, subject to appropriation; and

(B) be in addition to amounts appropriated for such purposes under any other provision of law.

(f) DEFINITIONS.—For the purposes of this subtitle, the following definitions apply:

(1) ACCOUNT.—The term “Account” means the Reclamation Water Storage Account established under subsection (e)(2).

(2) CONSTRUCTION.—The term “construction” means the designing, materials engineering and testing, surveying, and building of water storage including additions to existing water storage and construction of new water storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.

(3) WATER STORAGE.—The term “water storage” means any federally owned facility under the jurisdiction of the Bureau of Reclamation or any non-Federal facility used for the storage and supply of water resources.

(4) TREASURY RATE.—The term “Treasury rate” means the 20- year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury existing on the effective date of the contract.

(5) WATER USERS’ ASSOCIATION.—The term “water users’ association” means—

(A) an entity organized and recognized under State laws that is eligible to enter into contracts with Reclamation to receive contract water for delivery to end users of the water and to pay applicable charges; and

(B) includes a variety of entities with different names and differing functions, such as associations, conservancy districts, irrigation districts, municipalities, and water project contract units.

SEC. 4012. SAVINGS LANGUAGE.

(a) IN GENERAL.—This subtitle shall not be interpreted or implemented in a manner that—

(1) preempts or modifies any obligation of the United States to act in conformance with applicable State law, including applicable State water law;

(2) affects or modifies any obligation under the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706), except for the savings provisions for the Stanislaus River predator management program expressly established by section 11(d) and provisions in section 11(g);

(3) overrides, modifies, or amends the applicability of the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)) or the application of the smelt and salmonid biological opinions to the operation of the Central Valley Project or the State Water Project;

(4) would cause additional adverse effects on listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, using the best scientific and commercial data available; or

(5) overrides, modifies, or amends any obligation of the Pacific Fisheries Management Council, required by the Magnuson Stevens Act or the Endangered Species Act of 1973, to manage fisheries off the coast of California, Oregon, or Washington.

(b) SUCCESSOR BIOLOGICAL OPINIONS.—

(1) IN GENERAL.—The Secretaries of the Interior and Commerce shall apply this Act to any successor biological opinions to the smelt or salmonid biological opinions only to the extent that the Secretaries determine is consistent with—

(A) the Endangered Species Act of 1973 ([16 U.S.C. 1531 et seq.](#)), its implementing regulations, and the successor biological opinions; and

(B) subsection (a)(4).

(2) LIMITATION.—Nothing in this Act shall restrict the Secretaries of the Interior and Commerce from completing consultation on successor biological opinions and through those successor biological opinions implementing whatever adjustments in operations or other activities as may be required by the Endangered Species Act of 1973 and its implementing regulations.

(c) SEVERABILITY.—If any provision of this subtitle, or any application of such provision to any person or circumstance, is held to be inconsistent with any law or the biological opinions, the remainder of this subtitle and the application of this subtitle to any other person or circumstance shall not be affected.

SEC. 4013. DURATION.

This subtitle shall expire on the date that is 5 years after the date of its enactment, with the exception of—

(1) section 4004, which shall expire 10 years after the date of its enactment; and

(2) projects under construction in sections 4007, 4009(a), and 4009(c).

SEC. 4014. DEFINITIONS.

In this subtitle:

(1) ASSISTANT ADMINISTRATOR.—The term “Assistant Administrator” means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

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

(3) COMMISSIONER.—The term “Commissioner” means the Commissioner of Reclamation.

(4) DELTA.—The term “Delta” means the Sacramento-San Joaquin Delta and the Suisun Marsh (as defined in section 12220 of the California Water Code and section 29101 of the California Public Resources Code (as in effect on the date of enactment of this Act)).

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

(6) DIRECTOR.—The term “Director” means the Director of the United States Fish and Wildlife Service.

(7) LISTED FISH SPECIES.—The term “listed fish species” means—

(A) any natural origin steelhead, natural origin genetic spring run Chinook, or genetic winter run Chinook salmon (including any hatchery steelhead or salmon population within the evolutionary significant unit or a distinct population segment); and

(B) Delta smelt.

(8) RECLAMATION STATE.—The term “Reclamation State” means any of the States of—

(A) Arizona;

(B) California;

(C) Colorado;

(D) Idaho;

(E) Kansas;

(F) Montana;

(G) Nebraska;

(H) Nevada;

(I) New Mexico;

(J) North Dakota;

(K) Oklahoma;

(L) Oregon;

(M) South Dakota;

(N) Texas;

(O) Utah;

(P) Washington; and

(Q) Wyoming.

(9) SALMONID BIOLOGICAL OPINION.—

(A) IN GENERAL.—The term “salmonid biological opinion” means the biological and conference opinion of the National Marine Fisheries Service dated June 4, 2009, regarding the long-term operation of the Central Valley Project and the State Water Project, and successor biological opinions.

(B) INCLUSIONS.—The term “salmonid biological opinion” includes the operative incidental take statement of the opinion described in subparagraph (A).

(10) SMELT BIOLOGICAL OPINION.—

(A) IN GENERAL.—The term “smelt biological opinion” means the biological opinion dated December 15, 2008, regarding the coordinated operation of the Central Valley Project and the State Water Project, and successor biological opinions.

(B) INCLUSIONS.—The term “smelt biological opinion” includes the operative incidental take statement of the opinion described in subparagraph (A).

(11) STATE WATER PROJECT.—The term “State Water Project” means the water project described in chapter 5 of part 3 of division 6 of the California Water Code (sections 11550 et seq.) (as in effect on the date of enactment of this Act) and operated by the California Department of Water Resources.