

1 Purpose: In the nature of a substitute.

2

3

4 S. 1694

5

6 To amend Public Law 103–434 to authorize Phase III of the
7 Yakima River Basin Water Enhancement Project for the
8 purposes of improving water management in the Yakima River
9 basin, and for other purposes.

10

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

13 Ordered to lie on the table and to be printed

14 AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO BE
15 PROPOSED BY _____

16 Viz:

17 Strike all after the enacting clause and insert the following:

18 **SECTION 1. SHORT TITLE.**

19 This Act may be cited as the “Yakima River Basin Water Enhancement Project Phase III Act
20 of 2015”.

21 **SEC. 2. MODIFICATION OF TERMS, PURPOSES, AND**
22 **DEFINITIONS.**

23 (a) Modification of Terms.—

24 (1) IN GENERAL.—Title XII of Public Law 103–434 (108 Stat. 4550) is amended—

25 (A) by striking “Yakama Indian” each place it appears and inserting “Yakama”; and

26 (B) by striking “Superintendent” each place it appears and inserting “Manager”.

27 (2) HEADING AMENDMENTS.—Section 1204 of Public Law 103–434 (108 Stat. 4555) is
28 amended—

29 (A) in the section heading by striking “indian”; and

30 (B) in subsection (g), in the subsection heading, by striking “Yakama Indian Nation”
31 and inserting “Yakama Nation”.

1 (b) Modification of Purposes.—Section 1201 of Public Law 103–434 (108 Stat. 4550) is
2 amended—

3 (1) by striking paragraph (1) and inserting the following:

4 “(1) to protect, mitigate, and enhance fish and wildlife and the recovery and maintenance
5 of self-sustaining harvestable populations of fish and other aquatic life, both anadromous
6 and resident species, throughout their historic distribution range in the Yakima Basin
7 through—

8 “(A) improved water management and the constructions of fish passage at storage
9 and diversion dams, as authorized under the Hoover Power Plant Act of 1984 (43
10 U.S.C. 619 et seq.);

11 “(B) improved instream flows and water supplies;

12 “(C) improved water quality, watershed, and ecosystem function;

13 “(D) protection, creation, and enhancement of wetlands; and

14 “(E) other appropriate means of habitat improvement;”;

15 (2) in paragraph (2), by inserting “, municipal, industrial, and domestic water supply and
16 use purposes, especially during drought years, including reducing the frequency and
17 severity of water supply shortages for pro-ratable irrigation entities” before the semicolon at
18 the end;

19 (3) by striking paragraph (4);

20 (4) by redesignating paragraph (3) as paragraph (4);

21 (5) by inserting after paragraph (2) the following:

22 “(3) to authorize the Secretary to make water available for purchase or lease for meeting
23 municipal, industrial, and domestic water supply purposes;”;

24 (6) by redesignating paragraphs (5) and (6) as paragraphs (6) and (8), respectively;

25 (7) by inserting after paragraph (4) (as so redesignated) the following:

26 “(5) to realize sufficient water savings from implementing the Yakima River Basin
27 Integrated Water Resource Management Plan, so that not less than 85,000 acre feet of water
28 savings are achieved by implementing the first phase of the Integrated Plan pursuant to
29 section 1213(a);”;

30 (8) in paragraph (6) (as so redesignated)—

31 (A) by inserting “an increase in” before “voluntary”; and

32 (B) by striking “and” at the end;

33 (9) by inserting after paragraph (6) (as so redesignated) the following:

34 “(7) to encourage an increase in the use of, and reduce the barriers to, water transfers,
35 leasing, markets, and other voluntary transactions among public and private entities to
36 enhance water management in the Yakima River basin;”;

37 (10) in paragraph (8) (as redesignated by paragraph (6)), by striking the period at the end

1 and inserting a semicolon; and

2 (11) by adding at the end the following:

3 “(9) to improve the resilience of the ecosystems, economies, and communities in the
4 Basin as they face drought, climate variability, and climate change, for the benefit of both
5 the people and the fish and wildlife of the region; and

6 “(10) to authorize and implement the Yakima River Basin Integrated Water Resource
7 Management Plan as Phase III of the Yakima River Basin Water Enhancement Project, as a
8 balanced and cost-effective approach to maximize benefits to the communities and
9 environment in the Basin.”

10 (c) Modification of Definitions.—Section 1202 of Public Law 103–434 (108 Stat. 4550) is
11 amended—

12 (1) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14) as
13 paragraphs (8), (10), (11), (13), (14), (15), (16), (18), and (19), respectively;

14 (2) by inserting after paragraph (5) the following:

15 “(6) DESIGNATED FEDERAL OFFICIAL.—The term ‘designated Federal official’ means the
16 Commissioner of Reclamation (or a designee), acting pursuant to the charter of the
17 Conservation Advisory Group.

18 “(7) INTEGRATED PLAN.—The terms ‘Integrated Plan’ and ‘Yakima River Basin
19 Integrated Water Resource Plan’ mean the plan and activities authorized by this title, to be
20 carried out in cooperation with, and in addition to, activities of the State of Washington and
21 the Yakama Nation.”;

22 (3) by inserting after paragraph (8) (as redesignated by paragraph (1)) the following:

23 “(9) MUNICIPAL, INDUSTRIAL, AND DOMESTIC WATER SUPPLY AND USE.—The term
24 ‘municipal, industrial, and domestic water supply and use’ means the supply and use of
25 water for—

26 “(A) domestic consumption (whether urban or rural);

27 “(B) maintenance and protection of public health and safety;

28 “(C) manufacture, fabrication, processing, assembly, or other production of a good
29 or commodity;

30 “(D) production of energy;

31 “(E) fish hatcheries; or

32 “(F) any conservation activity relating to a use described in any of subparagraphs
33 (A) through (E).”;

34 (4) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

35 “(12) PRORATABLE IRRIGATION ENTITY.—The term ‘proratable irrigation entity’ means a
36 district, project, or State-recognized authority, board of control, agency, or entity located in
37 the Yakima River basin that—

38 “(A) manages and delivers irrigation water to farms in the basin; and

1 “(B) possesses, or the members of which possess, water rights that are proratable
2 during periods of water shortage.”; and

3 (5) by inserting after paragraph (16) (as redesignated by paragraph (1)) the following:

4 “(17) YAKIMA ENHANCEMENT PROJECT; YAKIMA RIVER BASIN WATER ENHANCEMENT
5 PROJECT.—The terms ‘Yakima Enhancement Project’ and ‘Yakima River Basin Water
6 Enhancement Project’ mean the Yakima River basin water enhancement project authorized
7 by Congress pursuant to this Act and other Acts (including Public Law 96–162 (93 Stat.
8 1241), section 109 of Public Law 98–381 (16 U.S.C. 839b note; 98 Stat. 1340), Public Law
9 105–62 (111 Stat. 1320), and Public Law 106–372 (114 Stat. 1425)) to promote water
10 conservation, water supply, habitat, and stream enhancement improvements in the Yakima
11 River basin.”.

12 SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION 13 PROGRAM.

14 Section 1203 of Public Law 103–434 (108 Stat. 4551) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (1)—

17 (i) in the second sentence, by striking “title” and inserting “section”; and

18 (ii) in the third sentence, by striking “within 5 years of the date of enactment of
19 this Act”; and

20 (B) in paragraph (2), by striking “irrigation” and inserting “the number of irrigated
21 acres”;

22 (2) in subsection (c)—

23 (A) in paragraph (2)—

24 (i) in each of subparagraphs (A) through (D), by striking the comma at the end
25 and inserting a semicolon;

26 (ii) in subparagraph (E), by striking the comma at the end and inserting “; and”;

27 (iii) in subparagraph (F), by striking “Department of Wildlife of the State of
28 Washington, and” and inserting “Department of Fish and Wildlife of the State of
29 Washington.”; and

30 (iv) by striking subparagraph (G);

31 (B) in paragraph (3)—

32 (i) in each of subparagraphs (A) through (C), by striking the comma at the end
33 and inserting a semicolon;

34 (ii) in subparagraph (D), by striking “, and” and inserting a semicolon;

35 (iii) in subparagraph (E), by striking the period at the end and inserting “; and”;
36 and

37 (iv) by adding at the end the following:

1 “(F) provide recommendations to advance the purposes and programs of the Yakima
2 Enhancement Project, including the Integrated Plan.”; and

3 (C) by striking paragraph (4) and inserting the following:

4 “(4) DESIGNATED FEDERAL OFFICIAL.—The Secretary shall designate a Federal official
5 that may—

6 “(A) arrange and provide logistical support for meetings of the Conservation
7 Advisory Group;

8 “(B) use a facilitator to serve as a moderator for meetings of the Conservation
9 Advisory Group or provide additional logistical support; and

10 “(C) grant any request for a facilitator by any member of the Conservation Advisory
11 Group.”;

12 (3) in subsection (d), by adding at the end the following:

13 “(4) PAYMENT OF LOCAL SHARE BY STATE OR FEDERAL GOVERNMENT.—The State or the
14 Federal Government may fund not more than the 17.5 percent local share of the costs of the
15 Basin Conservation Program in exchange for the long-term use of conserved water.”;

16 (4) in subsection (e), by striking the first sentence and inserting the following: “To
17 participate in the Basin Conservation Program, as described in subsection (b), an entity shall
18 submit to the Secretary a proposed water conservation plan.”;

19 (5) in subsection (i)(3)—

20 (A) by striking “purchase or lease” each place it appears and inserting “purchase,
21 lease, or management”; and

22 (B) in the third sentence, by striking “made immediately upon availability” and all
23 that follows through “Committee” and inserting “continued as needed to provide water
24 to be used by the Yakima Project Manager as recommended by the System Operations
25 Advisory Committee and the Conservation Advisory Group”; and

26 (6) in subsection (j)(4), in the first sentence, by striking “initial acquisition” and all that
27 follows through “flushing flows” and inserting “acquisition of water from willing sellers or
28 lessors specifically to provide improved instream flows for anadromous and resident fish
29 and other aquatic life, including pulse flows to facilitate outward migration of anadromous
30 fish”.

31 SEC. 4. YAKIMA BASIN WATER PROJECTS, 32 OPERATIONS, AND AUTHORIZATIONS.

33 (a) Yakama Nation Projects.—Section 1204(a)(2) of Public Law 103–434 (108 Stat. 4556) is
34 amended in the first sentence by striking “not more than \$23,000,000” and inserting “not more
35 than \$49,000,000, at September 2000 prices, plus or minus such amounts as may be justified by
36 reason of ordinary fluctuations of applicable cost indexes,”.

37 (b) Operation of Yakima Basin Projects.—Section 1205 of Public Law 103–434 (108 Stat.
38 4557) is amended—

39 (1) in subsection (a)(4)—

1 (A) in subparagraph (A)—

2 (i) in clause (i)—

3 (I) by inserting “additional” after “secure”;

4 (II) by striking “flushing” and inserting “pulse”; and

5 (III) by striking “uses” and inserting “uses, in addition to the quantity of
6 water provided under the treaty between the Yakama Nation and the United
7 States”;

8 (ii) by striking clause (ii);

9 (iii) by redesignating clause (iii) as clause (ii); and

10 (iv) in clause (ii) (as so redesignated) by inserting “and water rights mandated”
11 after “goals”; and

12 (B) in subparagraph (B)(i), in the first sentence, by inserting “in proportion to the
13 funding received” after “Program”;

14 (2) in subsection (b) (as amended by section 2(a)(1)(B)), in the second sentence, by
15 striking “instream flows for use by the Yakima Project Manager as flushing flows or as
16 otherwise” and inserting “fishery purposes, as”; and

17 (3) in subsection (e), by striking paragraph (1) and inserting the following:

18 “(1) IN GENERAL.—Additional purposes of the Yakima Project shall be any of the
19 following:

20 “(A) To recover and maintain self-sustaining harvestable populations of native fish,
21 both anadromous and resident species, throughout their historic distribution range in
22 the Yakima Basin.

23 “(B) To protect, mitigate, and enhance aquatic life and wildlife.

24 “(C) Recreation.

25 “(D) Municipal, industrial, and domestic use.”.

26 (c) Lake Cle Elum Authorization of Appropriations.—Section 1206(a)(1) of Public Law 103–
27 434 (108 Stat. 4560) is amended in the matter preceding subparagraph (A), by striking “at
28 September” through “to—” and inserting “such sums as are necessary to—”.

29 (d) Enhancement of Water Supplies for Yakima Basin Tributaries.—Section 1207 of Public
30 Law 103–434 (108 Stat. 4560) is amended—

31 (1) in the heading, by striking “supplies” and inserting “management”;

32 (2) in subsection (a)—

33 (A) in the matter preceding paragraph (1), by striking “supplies” and inserting
34 “management”;

35 (B) in paragraph (1), by inserting “and water supply entities” after “owners”; and

36 (C) in paragraph (2)—

1 (i) in subparagraph (A), by inserting “that choose not to participate or opt out of
2 tributary enhancement projects pursuant to this section” after “water right
3 owners”; and

4 (ii) in subparagraph (B), by inserting “nonparticipating” before “tributary water
5 users”;

6 (3) in subsection (b)—

7 (A) in paragraph (1)—

8 (i) by striking the paragraph designation and all that follows through “(but not
9 limited to)—” and inserting the following:

10 “(1) IN GENERAL.—The Secretary, following consultation with the State of Washington,
11 the Yakama Nation, and on agreement of appropriate water supply entities, is authorized to
12 conduct studies to evaluate measures to further Yakima Project purposes on tributaries to
13 the Yakima River. Enhancement programs that use measures authorized by this section may
14 be investigated and implemented by the Secretary in tributaries, including Taneum Creek,
15 other areas, or tributary basins that currently or could potentially be provided supplemental
16 or transfer water by entities, such as the Kittitas Reclamation District or the Yakima-Tieton
17 Irrigation District. Measures to evaluate include—”;

18 (ii) by indenting subparagraphs (A) through (F) appropriately;

19 (iii) in subparagraph (A), by inserting before the semicolon at the end the
20 following: “, including irrigation efficiency improvements (in coordination with
21 programs of the Department of Agriculture), consolidation of diversions or
22 administration, and diversion scheduling or coordination”;

23 (iv) by redesignating subparagraphs (C) through (F) as subparagraphs (E)
24 through (H), respectively;

25 (v) by inserting after subparagraph (B) the following:

26 “(C) improvements in irrigation system management or delivery facilities within the
27 Yakima River basin when those improvements allow for increased irrigation system
28 conveyance and corresponding reduction in diversion from tributaries or flow
29 enhancements to tributaries through direct flow supplementation or groundwater
30 recharge;

31 “(D) improvements of irrigation system management or delivery facilities to reduce
32 or eliminate excessively high flows caused by the use of natural streams for
33 conveyance or irrigation water or return water;”;

34 (vi) in subparagraph (E) (as redesignated by clause (iv)), by striking “ground
35 water” and inserting “groundwater recharge and”;

36 (vii) in subparagraph (G) (as redesignated by clause (iv)), by inserting “or
37 transfer” after “purchase”; and

38 (viii) in subparagraph (H) (as redesignated by clause (iv)), by inserting “stream
39 processes and” before “stream habitats”;

40 (B) in paragraph (2)—

1 (i) in the matter preceding subparagraph (A), by striking “the Taneum Creek
2 study” and inserting “studies under this subsection”;

3 (ii) in subparagraph (B)—

4 (I) by striking “and economic” and inserting “, infrastructure, economic,
5 and land use”; and

6 (II) by striking “and” at the end;

7 (iii) in subparagraph (C), by striking the period at the end and inserting “; and”;
8 and

9 (iv) by adding at the end the following:

10 “(D) any related studies already underway or undertaken.”; and

11 (C) in paragraph (3), in the first sentence, by inserting “of each tributary or group of
12 tributaries” after “study”;

13 (4) in subsection (c)—

14 (A) in the heading, by inserting “and nonsurface storage” after “nonstorage”; and

15 (B) in the matter preceding paragraph (1), by inserting “and nonsurface storage”
16 after “nonstorage”;

17 (5) by striking subsection (d);

18 (6) by redesignating subsection (e) as subsection (d); and

19 (7) in paragraph (2) of subsection (d) (as so redesignated)—

20 (A) in the first sentence—

21 (i) by inserting “and implementation” after “investigation”;

22 (ii) by striking “other” before “Yakima River”; and

23 (iii) by inserting “and other water supply entities” after “owners”; and

24 (B) by striking the second sentence.

25 (e) Chandler Pumping Plant and Powerplant-operations at Prosser Diversion Dam.—Section
26 1208(d) of Public Law 103–434 (108 Stat. 4562; 114 Stat. 1425) is amended by inserting
27 “negatively” before “affected”.

28 (f) Interim Comprehensive Basin Operating Plan.—Section 1210(c) of Public Law 103–434
29 (108 Stat. 4564) is amended by striking “\$100,000” and inserting “\$200,000, at September 2014
30 prices,”.

31 (g) Environmental Compliance.—Section 1211 of Public Law 103–434 (108 Stat. 4564) is
32 amended by inserting “, at September 2014 prices,” after “\$2,000,000”.

33 SEC. 5. AUTHORIZATION OF PHASE III OF YAKIMA 34 RIVER BASIN WATER ENHANCEMENT PROJECT.

35 Title XII of Public Law 103–434 (108 Stat. 4550) is amended by adding at the end the

1 following:

2 “SEC. 1213. AUTHORIZATION OF THE INTEGRATED
3 PLAN AS PHASE III OF YAKIMA RIVER BASIN WATER
4 ENHANCEMENT PROJECT.

5 “(a) Integrated Plan.—

6 “(1) IN GENERAL.—The Secretary shall implement the Integrated Plan as Phase III of the
7 Yakima River Basin Water Enhancement Project in accordance with this section and
8 applicable laws.

9 “(2) INITIAL DEVELOPMENT PHASE OF THE INTEGRATED PLAN.—

10 “(A) IN GENERAL.—The Secretary, in coordination with the State of Washington and
11 Yakama Nation and subject to feasibility studies, environmental reviews, and the
12 availability of appropriations, shall implement an initial development phase of the
13 Integrated Plan, to—

14 “(i) complete the planning, design, and construction or development of
15 upstream and downstream fish passage facilities, as previously authorized by the
16 Hoover Power Plant Act of 1984 (43 U.S.C. 619 et seq.) at Cle Elum Reservoir
17 and another Yakima Project reservoir identified by the Secretary as consistent
18 with the Integrated Plan and as set forth in the applicable feasibility study or
19 report;

20 “(ii) negotiate long-term agreements with participating proratable irrigation
21 entities in the Yakima Basin and, acting through the Bureau of Reclamation,
22 coordinate between Bureaus of the Department of the Interior and with the heads
23 of other Federal agencies to negotiate agreements concerning leases, easements,
24 and rights-of-way on Federal land, and other terms and conditions determined to
25 be necessary to allow for the non-Federal financing, construction, operation, and
26 maintenance of—

27 “(I) facilities needed to access and deliver inactive storage in Kachess
28 Reservoir for the purpose of providing drought relief for irrigation (known as
29 the ‘Kachess Drought Relief Pumping Plant’), as set forth in the applicable
30 feasibility study or report; and

31 “(II) a conveyance system to allow transfer of water between Keechelus
32 Reservoir to Kachess Reservoir for purposes of improving operational
33 flexibility for the benefit of both fish and irrigation (known as the ‘K to K
34 Pipeline’), as set forth in the applicable feasibility study or report;

35 “(iii) participate in, provide funding for, and accept non-Federal financing
36 for—

37 “(I) water conservation projects, not subject to the provisions of the Basin
38 Conservation Program described in section 1203, that are intended to
39 partially implement the Integrated Plan by providing 85,000 acre-feet of
40 conserved water to improve tributary and mainstem stream flow; and

1 “(II) aquifer storage and recovery projects benefitting all beneficial uses;

2 “(iv) study, evaluate, and conduct feasibility analyses and environmental
3 reviews of fish passage, water supply (including groundwater and surface water
4 storage), conservation, habitat restoration projects, and other alternatives
5 identified as consistent with the purposes of this Act, for the initial and future
6 phases of the Integrated Plan;

7 “(v) coordinate with and assist the State of Washington in implementing a
8 robust water market to enhance water management in the Yakima River basin,
9 including—

10 “(I) assisting in identifying ways to encourage and increase the use of, and
11 reduce the barriers to, water transfers, leasing, markets, and other voluntary
12 transactions among public and private entities in the Yakima River basin;

13 “(II) providing technical assistance, including scientific data and market
14 information; and

15 “(III) negotiating agreements that would facilitate water transfers between
16 entities, including as appropriate, the use of federally managed
17 infrastructure; and

18 “(vi) enter into cooperative agreements with, or make grants to, the Yakama
19 Nation, the State of Washington, Yakima River basin irrigation districts, water
20 districts, conservation districts, other local governmental entities, nonprofit
21 organizations, and land owners to carry out this title under such terms and
22 conditions as the Secretary may require, including the following purposes:

23 “(I) Land and water transfers, leases, and acquisitions from willing
24 participants, so long as the acquiring entity shall hold title and be responsible
25 for any and all required operations, maintenance, and management of that
26 land and water.

27 “(II) Operation and maintenance or management of Federal land acquired
28 under this title, in partnership with the Secretary.

29 “(III) To combine or relocate diversion points, remove fish barriers, or for
30 other activities that increase flows or improve habitat in the Yakima River
31 and its tributaries in furtherance of this title.

32 “(IV) To implement, in partnership with Federal and non-Federal entities,
33 projects to enhance the health and resilience of the watershed, subject to the
34 condition that if such a grant or cooperative agreement results in a direct
35 benefit to a project beneficiary, the Secretary may determine that the costs
36 are reimbursable.

37 “(B) COMMENCEMENT DATE.—The Secretary shall commence implementation of the
38 activities included under the initial development phase pursuant to this paragraph—

39 “(i) on the date of enactment of this section; and

40 “(ii) on completion of applicable feasibility studies that include a
41 recommendation for further development and environmental reviews.

1 “(3) INTERMEDIATE AND FINAL PHASES.—

2 “(A) IN GENERAL.—The Secretary, in coordination with the State of Washington and
3 in consultation with the Yakama Nation, shall develop plans for intermediate and final
4 development phases of the Integrated Plan to achieve the purposes of this Act,
5 including conducting applicable feasibility studies, environmental reviews, and other
6 relevant studies needed to develop the plans.

7 “(B) INTERMEDIATE PHASE.—The Secretary shall develop an intermediate
8 development phase to implement the Integrated Plan that, subject to authorization and
9 appropriation, would commence not later than 10 years after the date of enactment of
10 this section.

11 “(C) FINAL PHASE.—The Secretary shall develop a final development phase to
12 implement the Integrated Plan that, subject to authorization and appropriation, would
13 commence not later than 20 years after the date of enactment of this section.

14 “(4) CONTINGENCIES.—The implementation by the Secretary of projects and activities
15 identified for implementation under the Integrated Plan shall be—

16 “(A) subject to authorization and appropriation;

17 “(B) contingent on the completion and outcome of applicable feasibility studies that
18 include a recommendation for further project development, environmental reviews,
19 and cost-benefit and other analyses;

20 “(C) implemented subject to public review and a determination by the Secretary that
21 design, construction, and operation of a proposed project or activity is in the best
22 interest of the public; and

23 “(D) in compliance with all applicable laws, including the National Environmental
24 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973
25 (16 U.S.C. 1531 et seq).

26 “(5) PROGRESS REPORT.—

27 “(A) IN GENERAL.—Not later than 5 years after the date of enactment of this section,
28 the Secretary, in conjunction with the State of Washington and in consultation with the
29 Yakama Nation, shall submit to the Committee on Energy and Natural Resources of
30 the Senate and the Committee on Natural Resources of the House of Representatives a
31 progress report on the development and implementation of the Integrated Plan.

32 “(B) REQUIREMENTS.—The progress report under this paragraph shall—

33 “(i) provide a review and reassessment, if needed, of the objectives of the
34 Integrated Plan, as applied to all elements of the Integrated Plan;

35 “(ii) assess, through performance metrics developed at the initiation of, and
36 measured throughout the implementation of, the Integrated Plan, the degree to
37 which the implementation of the initial development phase addresses the
38 objectives and all elements of the Integrated Plan;

39 “(iii) identify additional projects and activities proposed for inclusion in any
40 future phase of the Integrated Plan to address the objectives of the Integrated Plan,

1 as applied to all elements of the Integrated Plan; and

2 “(iv) for water supply projects—

3 “(I) provide a preliminary discussion of the means by which—

4 “(aa) water and costs associated with each recommended project
5 would be allocated among authorized uses; and

6 “(bb) those allocations would be consistent with the objectives of the
7 Integrated Plan; and

8 “(II) establish a plan for soliciting and formalizing subscriptions among
9 individuals and entities for participation in any of the recommended water
10 supply projects that will establish the terms for participation, including fiscal
11 obligations associated with subscription.

12 “(b) Financing, Construction, Operation, and Maintenance of Kachess Drought Relief
13 Pumping Plant and K to K Pipeline.—

14 “(1) AGREEMENTS.—Long-term agreements negotiated between the Secretary and
15 participating proratable irrigation entities in the Yakima Basin for the non-Federal
16 financing, construction, operation, and maintenance of the Drought Relief Pumping Plant
17 and K to K Pipeline shall include provisions regarding—

18 “(A) responsibilities of the participating proratable irrigation entities for the
19 planning, design, and construction of infrastructure in consultation and coordination
20 with the Secretary;

21 “(B) property titles and responsibilities of the participating proratable irrigation
22 entities for the maintenance of and liability for all infrastructure constructed under this
23 title;

24 “(C) operation and integration of the projects by the Secretary in the operation of the
25 Yakima Project;

26 “(D) costs associated with the design, financing, construction, operation,
27 maintenance, and mitigation of projects, with the costs of Federal oversight and review
28 to be nonreimbursable to the participating proratable irrigation entities and the Yakima
29 Project; and

30 “(E) responsibilities for the pumping and operational costs necessary to provide the
31 total water supply available made inaccessible due to drought pumping during 1 or
32 more preceding calendar years, in the event that the Kachess Reservoir fails to refill as
33 a result of pumping drought storage water during the 1 or more preceding years, which
34 shall remain the responsibility of the participating proratable irrigation entities.

35 “(2) USE OF KACHESS RESERVOIR STORED WATER.—

36 “(A) IN GENERAL.—The additional stored water made available by the construction
37 of facilities to access and deliver inactive storage in the Kachess Reservoir under
38 subsection (a)(2)(A)(ii)(I) shall—

39 “(i) be considered to be Yakima Project water;

40 “(ii) not be part of the total water supply available, as that term is defined in

1 various court rulings; and

2 “(iii) be used exclusively by the Secretary—

3 “(I) to enhance the water supply in years when the total water supply
4 available is not sufficient to provide 70 percent of proratable entitlements in
5 order to make that additional water available up to 70 percent of proratable
6 entitlements to the Kittitas Reclamation District, the Roza Irrigation District,
7 or other proratable irrigation entities participating in the construction,
8 operation, and maintenance costs of the facilities under this title under such
9 terms and conditions to which the districts may agree, subject to the
10 conditions that—

11 “(aa) the Bureau of Indian Affairs, the Wapato Irrigation Project, and
12 the Yakama Nation, on an election to participate, may also obtain water
13 from Kachess Reservoir inactive storage to enhance applicable existing
14 irrigation water supply in accordance with such terms and conditions to
15 which the Bureau of Indian Affairs and the Yakama Nation may agree;
16 and

17 “(bb) the additional supply made available under this clause shall be
18 available to participating individuals and entities in proportion to the
19 proratable entitlements of the participating individuals and entities, or in
20 such other proportion as the participating entities may agree; and

21 “(II) to facilitate reservoir operations in the reach of the Yakima River
22 between Keechelus Dam and Easton Dam for the propagation of anadromous
23 fish.

24 “(B) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects (as in existence on
25 the date of enactment of this section) any contract, law (including regulations) relating
26 to repayment costs, water right, or Yakama Nation treaty right.

27 “(3) COMMENCEMENT.—The Secretary shall not commence entering into agreements
28 pursuant to subsection (a)(2)(A)(ii) or paragraph (1) or implementing any activities pursuant
29 to the agreements before the date on which—

30 “(A) all applicable feasibility studies and environmental reviews—

31 “(i) have been completed; and

32 “(ii) include favorable recommendations for further project development;

33 “(B) an analysis has been completed of—

34 “(i) the impacts of the agreements and activities pursuant to the agreements on
35 adjacent communities; and

36 “(ii) options for mitigating those impacts;

37 “(C) the Secretary has made available in the Federal Register the agreements and
38 any applicable project designs, operations plans, and other documents for public
39 review and comment for a period of not less than 60 days; and

40 “(D) the Secretary has made a determination that the agreements and activities to

1 which the agreements relate—

2 “(i) are in the public interest; and

3 “(ii) could be implemented without significant adverse impacts to the
4 environment.

5 “(4) ELECTRICAL POWER ASSOCIATED WITH KACHESS DROUGHT RELIEF PUMPING PLANT.—
6 The Administrator of the Bonneville Power Administration, pursuant to the Pacific
7 Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), shall
8 provide to the Secretary project power to operate the Kachess Pumping Plant constructed
9 under this title whenever inactive storage in the Kachess Reservoir is needed to provide
10 drought relief for irrigation. The Administrator shall provide the power at the then-
11 applicable lowest Bonneville Power Administration rate for public body, cooperative, and
12 Federal agency customers firm obligations, which as of the date of enactment of this section
13 is the priority firm Tier 1 rate, and shall not include any irrigation discount. At all other
14 times, power needed to operate the Kachess Pumping Plant shall be obtained by the
15 Secretary from a local provider. The cost of power for such pumping, station service power,
16 and all costs of transmitting power from the Federal Columbia River Power System to the
17 Yakima Enhancement Project pumping facilities shall be borne by irrigation districts
18 receiving the benefits of that water. The Commissioner of Reclamation shall be responsible
19 for arranging transmission for deliveries of Federal power over the Bonneville system
20 through applicable tariff and business practice processes of the Bonneville system and for
21 arranging transmission for deliveries of power obtained from a local provider.

22 “(c) Design and Use of Groundwater Recharge Projects.—

23 “(1) IN GENERAL.—Any water supply that results from an aquifer storage and recovery
24 project shall not be considered to be a part of the total water supply available if—

25 “(A) the water for the aquifer storage and recovery project would not be available
26 for use, but instead for the development of the project;

27 “(B) the aquifer storage and recovery project will not otherwise impair any water
28 supply available for any individual or entity entitled to use the total water supply
29 available;

30 “(C) the development of the aquifer storage and recovery project will not impair fish
31 or other aquatic life in any localized stream reach; and

32 “(D) the aquifer storage and recovery project is approved by the Work Group.

33 “(2) PROJECT TYPES.—The Secretary may design, implement, and otherwise participate in
34 groundwater recharge projects of any of the following 3 types:

35 “(A) Aquifer recharge projects designed to redistribute Yakima Project water within
36 a water year for the purposes of supplementing stream flow during the irrigation
37 season, particularly during storage control, subject to the condition that if such a
38 project is designed to supplement a mainstem reach, the water supply that results from
39 the project shall be credited to instream flow targets, in lieu of using the total water
40 supply available to meet those targets.

41 “(B) Aquifer storage and recovery projects that are designed, within a given water

1 year or over multiple water years—

2 “(i) to supplement or mitigate for municipal uses;

3 “(ii) to supplement municipal supply in a subsurface aquifer; or

4 “(iii) to mitigate the effect of groundwater use on instream flow or senior water
5 rights.

6 “(C) Aquifer storage and recovery projects designed to supplement existing
7 irrigation water supply, or to store water in subsurface aquifers, for use by the Kittitas
8 Reclamation District, the Roza Irrigation District, or any other proratable irrigation
9 entity participating in the repayment of the construction, operation, and maintenance
10 costs of the facilities under this section during years in which the total water supply
11 available is insufficient to provide to those proratable irrigation entities all water to
12 which the entities are entitled, subject to the conditions that—

13 “(i) the Bureau of Indian Affairs, the Wapato Irrigation Project, and the
14 Yakama Nation, on an election to participate, may also obtain water from aquifer
15 storage to enhance applicable existing irrigation water supply in accordance with
16 such terms and conditions to which the Bureau of Indian Affairs and the Yakama
17 Nation may agree; and

18 “(ii) nothing in this subparagraph affects (as in existence on the date of
19 enactment of this section) any contract, law (including regulations) relating to
20 repayment costs, water right, or Yakama Nation treaty right.

21 “(d) Federal Cost-share.—

22 “(1) IN GENERAL.—The Federal cost-share of a project carried out under this section shall
23 be determined in accordance with the applicable laws (including regulations) and policies of
24 the Bureau of Reclamation.

25 “(2) INITIAL PHASE.—The Federal cost-share for the initial development phase of the
26 Integrated Plan under subsection (a)(2) shall not exceed 50 percent of the total cost of the
27 initial development phase.

28 “(3) STATE AND OTHER CONTRIBUTIONS.—The Secretary may accept as part of the non-
29 Federal cost-share of a project carried out under this section, and expend as if appropriated,
30 any contribution (including in-kind services) by the State of Washington or any other
31 individual or entity that the Secretary determines will enhance the conduct and completion
32 of the project.

33 “(e) Savings and Contingencies.—Nothing in this section shall—

34 “(1) be a new or supplemental benefit for purposes of the Reclamation Reform Act of
35 1982 (43 U.S.C. 390aa et seq.);

36 “(2) affect any contract in existence on the date of enactment of the Yakima River Basin
37 Water Enhancement Project Phase III Act of 2015 that was executed pursuant to the
38 reclamation laws;

39 “(3) affect any contract or agreement between the Bureau of Indian Affairs and the
40 Bureau of Reclamation;

1 “(4) affect, waive, abrogate, diminish, define, or interpret the treaty between the Yakama
2 Nation and the United States; or

3 “(5) constrain the continued authority of the Secretary pursuant to the Hoover Power
4 Plant Act of 1984 (43 U.S.C. 619 et seq.) to provide fish passage in the Yakima Basin.

5 **“SEC. 1214. OPERATIONAL CONTROL OF WATER**
6 **SUPPLIES.**

7 “The Secretary shall retain authority and discretion over the management of project supplies to
8 optimize operational use and flexibility to ensure compliance with all applicable Federal and
9 State laws, treaty rights of the Yakama Nation, and legal obligations, including those contained
10 in this Act. That authority and discretion includes the ability of the United States to store,
11 deliver, conserve, and reuse water supplies deriving from projects authorized under this title.”.

DRAFT