

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 1694

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

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

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. MODIFICATION OF TERMS, PURPOSES, AND DEFINI-**
7 **TIONS.**

8 (a) MODIFICATION OF TERMS.—Title XII of Public
9 Law 103–434 (108 Stat. 4550) is amended—

1 (1) by striking “Yakama Indian” each place it
2 appears (except section 1204(g)) and inserting
3 “Yakama”; and

4 (2) by striking “Superintendent” each place it
5 appears and inserting “Manager”.

6 (b) MODIFICATION OF PURPOSES.—Section 1201 of
7 Public Law 103–434 (108 Stat. 4550) is amended—

8 (1) by striking paragraph (1) and inserting the
9 following:

10 “(1) to protect, mitigate, and enhance fish and
11 wildlife and the recovery and maintenance of self-
12 sustaining harvestable populations of fish and other
13 aquatic life, both anadromous and resident species,
14 throughout their historic distribution range in the
15 Yakima Basin through—

16 “(A) improved water management and the
17 constructions of fish passage at storage and di-
18 version dams, as authorized under the Hoover
19 Power Plant Act of 1984 (43 U.S.C. 619 et
20 seq.);

21 “(B) improved instream flows and water
22 supplies;

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

1 “(D) protection, creation, and enhance-
2 ment of wetlands; and

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

5 (2) in paragraph (2), by inserting “, municipal,
6 industrial, and domestic water supply and use pur-
7 poses, especially during drought years, including re-
8 ducing the frequency and severity of water supply
9 shortages for pro-ratable irrigation entities” before
10 the semicolon at the end;

11 (3) by striking paragraph (4);

12 (4) by redesignating paragraph (3) as para-
13 graph (4);

14 (5) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) to authorize the Secretary to make water
17 available for purchase or lease for meeting munic-
18 ipal, industrial, and domestic water supply pur-
19 poses;”;

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

22 (7) by inserting after paragraph (4) (as so re-
23 designated) the following:

24 “(5) to realize sufficient water savings from im-
25 plementing the Yakima River Basin Integrated

1 Water Resource Management Plan, so that not less
2 than 85,000 acre feet of water savings are achieved
3 by implementing the first phase of the Integrated
4 Plan pursuant to section 1213(a);”;

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

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

8 (B) by striking “and” at the end;

9 (9) by inserting after paragraph (6) (as so re-
10 designated) the following:

11 “(7) to encourage an increase in the use of, and
12 reduce the barriers to, water transfers, leasing, mar-
13 kets, and other voluntary transactions among public
14 and private entities to enhance water management
15 in the Yakima River basin;”;

16 (10) in paragraph (8) (as redesignated by para-
17 graph (6)), by striking the period at the end and in-
18 serting a semicolon; and

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

20 “(9) to improve the resilience of the ecosystems,
21 economies, and communities in the Basin as they
22 face drought, hydrologic changes, and other related
23 changes and variability in natural and human sys-
24 tems, for the benefit of both the people and the fish
25 and wildlife of the region; and

1 “(10) to authorize and implement the Yakima
2 River Basin Integrated Water Resource Manage-
3 ment Plan as Phase III of the Yakima River Basin
4 Water Enhancement Project, as a balanced and
5 cost-effective approach to maximize benefits to the
6 communities and environment in the Basin.”.

7 (c) MODIFICATION OF DEFINITIONS.—Section 1202
8 of Public Law 103–434 (108 Stat. 4550) is amended—

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

13 (2) by inserting after paragraph (5) the fol-
14 lowing:

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

20 “(7) INTEGRATED PLAN.—The terms ‘Inte-
21 grated Plan’ and ‘Yakima River Basin Integrated
22 Water Resource Plan’ mean the plan and activities
23 authorized by the Yakima River Basin Enhancement
24 Project Phase III Act of 2015 and the amendments
25 made by that Act, to be carried out in cooperation

1 with and in addition to activities of the State of
2 Washington and Yakama Nation.”;

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

5 “(9) MUNICIPAL, INDUSTRIAL, AND DOMESTIC
6 WATER SUPPLY AND USE.—The term ‘municipal, industrial, and domestic water supply and use’ means
7 the supply and use of water for—
8

9 “(A) domestic consumption (whether urban
10 or rural);

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

13 “(C) manufacture, fabrication, processing,
14 assembly, or other production of a good or commodity;
15

16 “(D) production of energy;

17 “(E) fish hatcheries; or

18 “(F) water conservation activities relating
19 to a use described in subparagraphs (A)
20 through (E).”;

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

23 “(12) PRORATABLE IRRIGATION ENTITY.—The
24 term ‘proratable irrigation entity’ means a district,
25 project, or State-recognized authority, board of con-

1 trol, agency, or entity located in the Yakima River
2 basin that—

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

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

8 (5) by inserting after paragraph (16) (as redese-
9 ignated by paragraph (1)) the following:

10 “(17) YAKIMA ENHANCEMENT PROJECT; YAK-
11 IMA RIVER BASIN WATER ENHANCEMENT
12 PROJECT.—The terms ‘Yakima Enhancement
13 Project’ and ‘Yakima River Basin Water Enhance-
14 ment Project’ mean the Yakima River basin water
15 enhancement project authorized by Congress pursu-
16 ant to this Act and other Acts (including Public Law
17 96–162 (93 Stat. 1241), section 109 of Public Law
18 98–381 (16 U.S.C. 839b note; 98 Stat. 1340), Pub-
19 lic Law 105–62 (111 Stat. 1320), and Public Law
20 106–372 (114 Stat. 1425)) to promote water con-
21 servation, water supply, habitat, and stream en-
22 hancement improvements in the Yakima River
23 basin.”.

1 **SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PRO-**
2 **GRAM.**

3 Section 1203 of Public Law 103–434 (108 Stat.
4 4551) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)—

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

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

12 (B) in paragraph (2), by striking “irriga-
13 tion” and inserting “the number of irrigated
14 acres”;

15 (2) in subsection (c)—

16 (A) in paragraph (2)—

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

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

23 (iii) in subparagraph (F), by striking
24 “Department of Wildlife of the State of
25 Washington, and” and inserting “Depart-

1 ment of Fish and Wildlife of the State of
2 Washington.”; and

3 (iv) by striking subparagraph (G);

4 (B) in paragraph (3)—

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

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

10 (iii) in subparagraph (E), by striking
11 the period at the end and inserting “;
12 and”; and

13 (iv) by adding at the end the fol-
14 lowing:

15 “(F) provide recommendations to advance
16 the purposes and programs of the Yakima En-
17 hancement Project, including the Integrated
18 Plan.”; and

19 (C) by striking paragraph (4) and insert-
20 ing the following:

21 “(4) AUTHORITY OF DESIGNATED FEDERAL OF-
22 FICIAL.—The designated Federal official may—

23 “(A) arrange and provide logistical support
24 for meetings of the Conservation Advisory
25 Group;

1 “(B) use a facilitator to serve as a moder-
2 ator for meetings of the Conservation Advisory
3 Group or provide additional logistical support;
4 and

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

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

10 “(4) PAYMENT OF LOCAL SHARE BY STATE OR
11 FEDERAL GOVERNMENT.—

12 “(A) IN GENERAL.—The State or the Fed-
13 eral Government may fund not more than the
14 17.5 percent local share of the costs of the
15 Basin Conservation Program in exchange for
16 the long-term use of conserved water, subject to
17 the requirement that the funding by the Fed-
18 eral Government of the local share of the costs
19 shall provide a quantifiable public benefit in
20 meeting Federal responsibilities in the Basin
21 and the purposes of this title.

22 “(B) USE OF CONSERVED WATER.—The
23 Yakima Project Manager may use water result-
24 ing from conservation measures taken under
25 this title, in addition to water that the Bureau

1 of Reclamation may acquire from any willing
2 seller through purchase, donation, or lease, for
3 water management uses pursuant to this title.”;

4 (4) in subsection (e), by striking the first sen-
5 tence and inserting the following: “To participate in
6 the Basin Conservation Program, as described in
7 subsection (b), an entity shall submit to the Sec-
8 retary a proposed water conservation plan.”;

9 (5) in subsection (i)(3)—

10 (A) by striking “purchase or lease” each
11 place it appears and inserting “purchase, lease,
12 or management”; and

13 (B) in the third sentence, by striking
14 “made immediately upon availability” and all
15 that follows through “Committee” and inserting
16 “continued as needed to provide water to be
17 used by the Yakima Project Manager as rec-
18 ommended by the System Operations Advisory
19 Committee and the Conservation Advisory
20 Group”; and

21 (6) in subsection (j)(4), in the first sentence, by
22 striking “initial acquisition” and all that follows
23 through “flushing flows” and inserting “acquisition
24 of water from willing sellers or lessors specifically to
25 provide improved instream flows for anadromous

1 and resident fish and other aquatic life, including
2 pulse flows to facilitate outward migration of anad-
3 romous fish”.

4 **SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS,**
5 **AND AUTHORIZATIONS.**

6 (a) YAKAMA NATION PROJECTS.—Section 1204 of
7 Public Law 103–434 (108 Stat. 4555) is amended—

8 (1) in subsection (a)(2), in the first sentence,
9 by striking “not more than \$23,000,000” and in-
10 sserting “not more than \$100,000,000”; and

11 (2) in subsection (g)—

12 (A) by striking the subsection heading and
13 inserting “REDESIGNATION OF YAKAMA INDIAN
14 NATION TO YAKAMA NATION.—”;

15 (B) by striking paragraph (1) and insert-
16 ing the following:

17 “(1) REDESIGNATION.—The Confederated
18 Tribes and Bands of the Yakama Indian Nation
19 shall be known and designated as the ‘Confederated
20 Tribes and Bands of the Yakama Nation.’”; and

21 (C) in paragraph (2), by striking “deemed
22 to be a reference to the ‘Confederated Tribes
23 and Bands of the Yakama Indian Nation.’” and
24 inserting “deemed to be a reference to the

1 (ii) in subparagraph (B)(i), in the
2 first sentence, by inserting “in proportion
3 to the funding received” after “Program”;

4 (2) in subsection (b) (as amended by section
5 2(a)(1)(B)), in the second sentence, by striking
6 “instream flows for use by the Yakima Project Man-
7 ager as flushing flows or as otherwise” and inserting
8 “fishery purposes, as”; and

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

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

13 “(A) To recover and maintain self-sus-
14 taining harvestable populations of native fish,
15 both anadromous and resident species, through-
16 out their historic distribution range in the Yak-
17 ima Basin.

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

20 “(C) Recreation.

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

23 (c) LAKE CLE ELUM AUTHORIZATION OF APPRO-
24 PRIATIONS.—Section 1206(a)(1) of Public Law 103–434
25 (108 Stat. 4560), is amended, in the matter preceding

1 subparagraph (A), by striking “at September” and all that
2 follows through “to—” and inserting “not more than
3 \$12,000,000 to—”.

4 (d) ENHANCEMENT OF WATER SUPPLIES FOR YAK-
5 IMA BASIN TRIBUTARIES.—Section 1207 of Public Law
6 103–434 (108 Stat. 4560) is amended—

7 (1) in the heading, by striking “**SUPPLIES**”
8 and inserting “**MANAGEMENT**”;

9 (2) in subsection (a)—

10 (A) in the matter preceding paragraph (1),
11 by striking “supplies” and inserting “manage-
12 ment”;

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

15 (C) in paragraph (2)—

16 (i) in subparagraph (A), by inserting
17 “that choose not to participate or opt out
18 of tributary enhancement projects pursu-
19 ant to this section” after “water right own-
20 ers”; and

21 (ii) in subparagraph (B), by inserting
22 “nonparticipating” before “tributary water
23 users”;

24 (3) in subsection (b)—

25 (A) in paragraph (1)—

1 (i) by striking the paragraph designa-
2 tion and all that follows through “(but not
3 limited to)—” and inserting the following:

4 “(1) IN GENERAL.—The Secretary, following
5 consultation with the State of Washington, tributary
6 water right owners, and the Yakama Nation, and on
7 agreement of appropriate water right owners, is au-
8 thorized to conduct studies to evaluate measures to
9 further Yakima Project purposes on tributaries to
10 the Yakima River. Enhancement programs that use
11 measures authorized by this subsection may be in-
12 vestigated and implemented by the Secretary in trib-
13 utaries to the Yakima River, including Taneum
14 Creek, other areas, or tributary basins that currently
15 or could potentially be provided supplemental or
16 transfer water by entities, such as the Kittitas Rec-
17 lamation District or the Yakima-Tieton Irrigation
18 District, subject to the condition that activities may
19 commence on completion of applicable and required
20 feasibility studies, environmental reviews, and cost-
21 benefit analyses that include favorable recommenda-
22 tions for further project development, as appro-
23 priate. Measures to evaluate include—”;

24 (ii) by indenting subparagraphs (A)
25 through (F) appropriately;

1 (iii) in subparagraph (A), by inserting
2 before the semicolon at the end the fol-
3 lowing: “, including irrigation efficiency
4 improvements (in coordination with pro-
5 grams of the Department of Agriculture),
6 consolidation of diversions or administra-
7 tion, and diversion scheduling or coordina-
8 tion”;

9 (iv) by redesignating subparagraphs
10 (C) through (F) as subparagraphs (E)
11 through (H), respectively;

12 (v) by inserting after subparagraph
13 (B) the following:

14 “(C) improvements in irrigation system
15 management or delivery facilities within the
16 Yakima River basin when those improvements
17 allow for increased irrigation system conveyance
18 and corresponding reduction in diversion from
19 tributaries or flow enhancements to tributaries
20 through direct flow supplementation or ground-
21 water recharge;

22 “(D) improvements of irrigation system
23 management or delivery facilities to reduce or
24 eliminate excessively high flows caused by the

1 use of natural streams for conveyance or irriga-
2 tion water or return water;”;

3 (vi) in subparagraph (E) (as redesign-
4 nated by clause (iv)), by striking “ground
5 water” and inserting “groundwater re-
6 charge and”;

7 (vii) in subparagraph (G) (as redesign-
8 nated by clause (iv)), by inserting “or
9 transfer” after “purchase”; and

10 (viii) in subparagraph (H) (as redesign-
11 nated by clause (iv)), by inserting “stream
12 processes and” before “stream habitats”;

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A), by striking “the Taneum Creek
16 study” and inserting “studies under this
17 subsection”;

18 (ii) in subparagraph (B)—

19 (I) by striking “and economic”
20 and inserting “, infrastructure, eco-
21 nomic, and land use”; and

22 (II) by striking “and” at the end;

23 (iii) in subparagraph (C), by striking
24 the period at the end and inserting “;
25 and”; and

1 (iv) by adding at the end the fol-
2 lowing:

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

5 (C) in paragraph (3), in the first sentence,
6 by inserting “of each tributary or group of trib-
7 utaries” after “study”;

8 (4) in subsection (c)—

9 (A) in the heading, by inserting “**AND**
10 **NONSURFACE STORAGE**” after “**NONSTOR-**
11 **AGE**”; and

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

15 (5) by striking subsection (d);

16 (6) by redesignating subsection (e) as sub-
17 section (d); and

18 (7) in paragraph (2) of subsection (d) (as so re-
19 designated)—

20 (A) in the first sentence—

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

23 (ii) by striking “other” before “Yak-
24 ima River”; and

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

3 (B) by striking the second sentence.

4 (e) CHANDLER PUMPING PLANT AND POWERPLANT-
5 OPERATIONS AT PROSSER DIVERSION DAM.—Section
6 1208(d) of Public Law 103–434 (108 Stat. 4562; 114
7 Stat. 1425) is amended by inserting “negatively” before
8 “affected”.

9 (f) INTERIM COMPREHENSIVE BASIN OPERATING
10 PLAN.—Section 1210(e) of Public Law 103–434 (108
11 Stat. 4564) is amended by striking “\$100,000” and in-
12 serting “\$200,000”.

13 (g) ENVIRONMENTAL COMPLIANCE.—Section 1211
14 of Public Law 103–434 (108 Stat. 4564) is amended by
15 striking “\$2,000,000” and inserting “\$5,000,000”.

16 **SEC. 5. AUTHORIZATION OF PHASE III OF YAKIMA RIVER**
17 **BASIN WATER ENHANCEMENT PROJECT.**

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

20 **“SEC. 1213. AUTHORIZATION OF THE INTEGRATED PLAN AS**
21 **PHASE III OF YAKIMA RIVER BASIN WATER**
22 **ENHANCEMENT PROJECT.**

23 “(a) INTEGRATED PLAN.—

24 “(1) IN GENERAL.—The Secretary shall imple-
25 ment the Integrated Plan as Phase III of the Yak-

1 Yakima River Basin Water Enhancement Project in ac-
2 cordance with this section and applicable laws.

3 “(2) INITIAL DEVELOPMENT PHASE OF THE IN-
4 TEGRAED PLAN.—

5 “(A) IN GENERAL.—The Secretary, in co-
6 ordination with the State of Washington and
7 Yakama Nation and subject to feasibility stud-
8 ies, environmental reviews, and the availability
9 of appropriations, shall implement an initial de-
10 velopment phase of the Integrated Plan, to—

11 “(i) complete the planning, design,
12 and construction or development of up-
13 stream and downstream fish passage facili-
14 ties, as previously authorized by the Hoo-
15 ver Power Plant Act of 1984 (43 U.S.C.
16 619 et seq.) at Cle Elum Reservoir and an-
17 other Yakima Project reservoir identified
18 by the Secretary as consistent with the In-
19 tegrated Plan, subject to the condition
20 that, if the Yakima Project reservoir iden-
21 tified by the Secretary contains a hydro-
22 power project licensed by the Federal En-
23 ergy Regulatory Commission, the Secretary
24 shall cooperate with the Federal Energy
25 Regulatory Commission in a timely manner

1 to ensure that actions taken by the Sec-
2 retary are consistent with the applicable
3 hydropower project license;

4 “(ii) negotiate long-term agreements
5 with participating proratable irrigation en-
6 tities in the Yakima Basin and, acting
7 through the Bureau of Reclamation, co-
8 ordinate between Bureaus of the Depart-
9 ment of the Interior and with the heads of
10 other Federal agencies to negotiate agree-
11 ments concerning leases, easements, and
12 rights-of-way on Federal land, and other
13 terms and conditions determined to be nec-
14 essary to allow for the non-Federal financ-
15 ing, construction, operation, and mainte-
16 nance of—

17 “(I) new facilities needed to ac-
18 cess and deliver inactive storage in
19 Lake Kachess for the purpose of pro-
20 viding drought relief for irrigation
21 (known as the ‘Kachess Drought Re-
22 lief Pumping Plant’); and

23 “(II) a conveyance system to
24 allow transfer of water between
25 Keechelus Reservoir to Kachess Res-

1 ervoir for purposes of improving oper-
2 ational flexibility for the benefit of
3 both fish and irrigation (known as the
4 ‘K to K Pipeline’);

5 “(iii) participate in, provide funding
6 for, and accept non-Federal financing
7 for—

8 “(I) water conservation projects,
9 not subject to the provisions of the
10 Basin Conservation Program de-
11 scribed in section 1203, that are in-
12 tended to partially implement the In-
13 tegrated Plan by providing 85,000
14 acre-feet of conserved water to im-
15 prove tributary and mainstem stream
16 flow; and

17 “(II) aquifer storage and recov-
18 ery projects;

19 “(iv) study, evaluate, and conduct fea-
20 sibility analyses and environmental reviews
21 of fish passage, water supply (including
22 groundwater and surface water storage),
23 conservation, habitat restoration projects,
24 and other alternatives identified as con-
25 sistent with the purposes of this Act, for

1 the initial and future phases of the Inte-
2 grated Plan;

3 “(v) coordinate with and assist the
4 State of Washington in implementing a ro-
5 bust water market to enhance water man-
6 agement in the Yakima River basin, in-
7 cluding—

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

15 “(II) providing technical assist-
16 ance, including scientific data and
17 market information; and

18 “(III) negotiating agreements
19 that would facilitate voluntary water
20 transfers between entities, including
21 as appropriate, the use of federally
22 managed infrastructure; and

23 “(vi) enter into cooperative agree-
24 ments with, or, subject to a minimum non-
25 Federal cost-sharing requirement of 50

1 percent, make grants to, the Yakama Na-
2 tion, the State of Washington, Yakima
3 River basin irrigation districts, water dis-
4 tricts, conservation districts, other local
5 governmental entities, nonprofit organiza-
6 tions, and land owners to carry out this
7 title under such terms and conditions as
8 the Secretary may require, including the
9 following purposes:

10 “(I) Land and water transfers,
11 leases, and acquisitions from willing
12 participants, so long as the acquiring
13 entity shall hold title and be respon-
14 sible for any and all required oper-
15 ations, maintenance, and management
16 of that land and water.

17 “(II) To combine or relocate di-
18 version points, remove fish barriers,
19 or for other activities that increase
20 flows or improve habitat in the Yak-
21 ima River and its tributaries in fur-
22 therance of this title.

23 “(III) To implement, in partner-
24 ship with Federal and non-Federal en-

1 tities, projects to enhance the health
2 and resilience of the watershed.

3 “(B) COMMENCEMENT DATE.—The Sec-
4 retary shall commence implementation of the
5 activities included under the initial development
6 phase pursuant to this paragraph—

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

9 “(ii) on completion of applicable feasi-
10 bility studies, environmental reviews, and
11 cost-benefit analyses that include favorable
12 recommendations for further project devel-
13 opment.

14 “(3) INTERMEDIATE AND FINAL PHASES.—

15 “(A) IN GENERAL.—The Secretary, in co-
16 ordination with the State of Washington and in
17 consultation with the Yakama Nation, shall de-
18 velop plans for intermediate and final develop-
19 ment phases of the Integrated Plan to achieve
20 the purposes of this Act, including conducting
21 applicable feasibility studies, environmental re-
22 views, and other relevant studies needed to de-
23 velop the plans.

24 “(B) INTERMEDIATE PHASE.—The Sec-
25 retary shall develop an intermediate develop-

1 ment phase to implement the Integrated Plan
2 that, subject to authorization and appropria-
3 tion, would commence not later than 10 years
4 after the date of enactment of this section.

5 “(C) FINAL PHASE.—The Secretary shall
6 develop a final development phase to implement
7 the Integrated Plan that, subject to authoriza-
8 tion and appropriation, would commence not
9 later than 20 years after the date of enactment
10 of this section.

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

14 “(A) subject to authorization and appro-
15 priation;

16 “(B) contingent on the completion of appli-
17 cable feasibility studies, environmental reviews,
18 and cost-benefit analyses that include favorable
19 recommendations for further project develop-
20 ment;

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

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

6 “(5) PROGRESS REPORT.—

7 “(A) IN GENERAL.—Not later than 5 years
8 after the date of enactment of this section, the
9 Secretary, in conjunction with the State of
10 Washington and in consultation with the
11 Yakama Nation, shall submit to the Committee
12 on Energy and Natural Resources of the Senate
13 and the Committee on Natural Resources of the
14 House of Representatives a progress report on
15 the development and implementation of the In-
16 tegrated Plan.

17 “(B) REQUIREMENTS.—The progress re-
18 port under this paragraph shall—

19 “(i) provide a review and reassess-
20 ment, if needed, of the objectives of the In-
21 tegrated Plan, as applied to all elements of
22 the Integrated Plan;

23 “(ii) assess, through performance
24 metrics developed at the initiation of, and
25 measured throughout the implementation

1 of, the Integrated Plan, the degree to
2 which the implementation of the initial de-
3 velopment phase addresses the objectives
4 and all elements of the Integrated Plan;

5 “(iii) identify the amount of Federal
6 funding and non-Federal contributions re-
7 ceived and expended during the period cov-
8 ered by the report;

9 “(iv) describe the pace of project de-
10 velopment during the period covered by the
11 report;

12 “(v) identify additional projects and
13 activities proposed for inclusion in any fu-
14 ture phase of the Integrated Plan to ad-
15 dress the objectives of the Integrated Plan,
16 as applied to all elements of the Integrated
17 Plan; and

18 “(vi) for water supply projects—

19 “(I) provide a preliminary discus-
20 sion of the means by which—

21 “(aa) water and costs asso-
22 ciated with each recommended
23 project would be allocated among
24 authorized uses; and

1 “(bb) those allocations
2 would be consistent with the ob-
3 jectives of the Integrated Plan;
4 and

5 “(II) establish a plan for solie-
6 iting and formalizing subscriptions
7 among individuals and entities for
8 participation in any of the rec-
9 ommended water supply projects that
10 will establish the terms for participa-
11 tion, including fiscal obligations asso-
12 ciated with subscription.

13 “(b) FINANCING, CONSTRUCTION, OPERATION, AND
14 MAINTENANCE OF KACHESS DROUGHT RELIEF PUMPING
15 PLANT AND K TO K PIPELINE.—

16 “(1) AGREEMENTS.—Long-term agreements ne-
17 gotiated between the Secretary and participating
18 proratable irrigation entities in the Yakima Basin
19 for the non-Federal financing, construction, oper-
20 ation, and maintenance of the Drought Relief Pump-
21 ing Plant and K to K Pipeline shall include provi-
22 sions regarding—

23 “(A) responsibilities of the participating
24 proratable irrigation entities for the planning,
25 design, and construction of infrastructure in

1 consultation and coordination with the Sec-
2 retary;

3 “(B) property titles and responsibilities of
4 the participating proratable irrigation entities
5 for the maintenance of and liability for all in-
6 frastructure constructed under this title;

7 “(C) operation and integration of the
8 projects by the Secretary in the operation of the
9 Yakima Project;

10 “(D) costs associated with the design, fi-
11 nancing, construction, operation, maintenance,
12 and mitigation of projects, with the costs of
13 Federal oversight and review to be nonreim-
14 bursable to the participating proratable irriga-
15 tion entities and the Yakima Project; and

16 “(E) responsibilities for the pumping and
17 operational costs necessary to provide the total
18 water supply available made inaccessible due to
19 drought pumping during the preceding 1 or
20 more calendar years, in the event that the
21 Kachess Reservoir fails to refill as a result of
22 pumping drought storage water during the pre-
23 ceding 1 or more calendar years, which shall re-
24 main the responsibility of the participating pro-
25 ratable irrigation entities.

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

3 “(A) IN GENERAL.—The additional stored
4 water made available by the construction of fa-
5 cilities to access and deliver inactive storage in
6 Kachess Reservoir under subsection
7 (a)(2)(A)(ii)(I) shall—

8 “(i) be considered to be Yakima
9 Project water;

10 “(ii) not be part of the total water
11 supply available, as that term is defined in
12 various court rulings; and

13 “(iii) be used exclusively by the Sec-
14 retary—

15 “(I) to enhance the water supply
16 in years when the total water supply
17 available is not sufficient to provide
18 70 percent of proratable entitlements
19 in order to make that additional water
20 available up to 70 percent of prorata-
21 ble entitlements to the Kittitas Rec-
22 lamation District, the Roza Irrigation
23 District, or other proratable irrigation
24 entities participating in the construc-
25 tion, operation, and maintenance costs

1 of the facilities under this title under
2 such terms and conditions to which
3 the districts may agree, subject to the
4 conditions that—

5 “(aa) the Bureau of Indian
6 Affairs, the Wapato Irrigation
7 Project, and the Yakama Nation,
8 on an election to participate, may
9 also obtain water from Kachess
10 Reservoir inactive storage to en-
11 hance applicable existing irriga-
12 tion water supply in accordance
13 with such terms and conditions
14 to which the Bureau of Indian
15 Affairs and the Yakama Nation
16 may agree; and

17 “(bb) the additional supply
18 made available under this clause
19 shall be available to participating
20 individuals and entities in pro-
21 portion to the proratable entitle-
22 ments of the participating indi-
23 viduals and entities, or in such
24 other proportion as the partici-
25 pating entities may agree; and

1 “(II) to facilitate reservoir oper-
2 ations in the reach of the Yakima
3 River between Keechelus Dam and
4 Easton Dam for the propagation of
5 anadromous fish.

6 “(B) EFFECT OF PARAGRAPH.—Nothing
7 in this paragraph affects (as in existence on the
8 date of enactment of this section) any contract,
9 law (including regulations) relating to repay-
10 ment costs, water right, or Yakama Nation
11 treaty right.

12 “(3) COMMENCEMENT.—The Secretary shall
13 not commence entering into agreements pursuant to
14 subsection (a)(2)(A)(ii) or subsection (b)(1) or im-
15 plementing any activities pursuant to the agree-
16 ments before the date on which—

17 “(A) all applicable and required feasibility
18 studies, environmental reviews, and cost-benefit
19 analyses have been completed and include favor-
20 able recommendations for further project devel-
21 opment, including an analysis of—

22 “(i) the impacts of the agreements
23 and activities conducted pursuant to sub-
24 section (a)(2)(A)(ii) on adjacent commu-
25 nities, including potential fire hazards,

1 water access for fire districts, community
2 and homeowner wells, future water levels
3 based on projected usage, recreational val-
4 ues, and property values; and

5 “(ii) specific options and measures for
6 mitigating the impacts, as appropriate;

7 “(B) the Secretary has made the agree-
8 ments and any applicable project designs, oper-
9 ations plans, and other documents available for
10 public review and comment in the Federal Reg-
11 ister for a period of not less than 60 days; and

12 “(C) the Secretary has made a determina-
13 tion, consistent with applicable law, that the
14 agreements and activities to which the agree-
15 ments relate—

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

17 “(ii) could be implemented without
18 significant adverse impacts to the environ-
19 ment.

20 “(4) ELECTRICAL POWER ASSOCIATED WITH
21 KACHESS DROUGHT RELIEF PUMPING PLANT.—

22 “(A) IN GENERAL.—The Administrator of
23 the Bonneville Power Administration, pursuant
24 to the Pacific Northwest Electric Power Plan-
25 ning and Conservation Act (16 U.S.C. 839 et

1 seq.), shall provide to the Secretary project
2 power to operate the Kachess Pumping Plant
3 constructed under this title if inactive storage
4 in Kachess Reservoir is needed to provide
5 drought relief for irrigation, subject to the re-
6 quirements of subparagraphs (B) and (C).

7 “(B) DETERMINATION.—Power may be
8 provided under subparagraph (A) only if—

9 “(i) there is in effect a drought dec-
10 laration issued by the State of Washington;

11 “(ii) there are conditions that have led
12 to 70 percent or less water delivery to pro-
13 ratable irrigation districts, as determined
14 by the Secretary; and

15 “(iii) the Secretary determines that it
16 is appropriate to provide power under that
17 subparagraph.

18 “(C) PERIOD OF AVAILABILITY.—Power
19 under subparagraph (A) shall be provided until
20 the date on which the Secretary determines that
21 power should no longer be provided under that
22 subparagraph, but for not more than a 1-year
23 period or the period during which the Secretary
24 determines that drought mitigation measures
25 are necessary in the Yakima River basin.

1 “(D) RATE.—The Administrator of the
2 Bonneville Power Administration shall provide
3 power under subparagraph (A) at the then-ap-
4 plicable lowest Bonneville Power Administration
5 rate for public body, cooperative, and Federal
6 agency customers firm obligations, which as of
7 the date of enactment of this section is the pri-
8 ority firm Tier 1 rate, and shall not include any
9 irrigation discount.

10 “(E) LOCAL PROVIDER.—During any pe-
11 riod in which power is not being provided under
12 subparagraph (A), the power needed to operate
13 the Kachess Pumping Plant shall be obtained
14 by the Secretary from a local provider.

15 “(F) COSTS.—The cost of power for such
16 pumping, station service power, and all costs of
17 transmitting power from the Federal Columbia
18 River Power System to the Yakima Enhance-
19 ment Project pumping facilities shall be borne
20 by irrigation districts receiving the benefits of
21 that water.

22 “(G) DUTIES OF COMMISSIONER.—The
23 Commissioner of Reclamation shall be respon-
24 sible for arranging transmission for deliveries of
25 Federal power over the Bonneville system

1 through applicable tariff and business practice
2 processes of the Bonneville system and for ar-
3 ranging transmission for deliveries of power ob-
4 tained from a local provider.

5 “(c) DESIGN AND USE OF GROUNDWATER RE-
6 CHARGE PROJECTS.—

7 “(1) IN GENERAL.—Any water supply that re-
8 sults from an aquifer storage and recovery project
9 shall not be considered to be a part of the total
10 water supply available if—

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

14 “(B) the aquifer storage and recovery
15 project will not otherwise impair any water sup-
16 ply available for any individual or entity entitled
17 to use the total water supply available; and

18 “(C) the development of the aquifer stor-
19 age and recovery project will not impair fish or
20 other aquatic life in any localized stream reach.

21 “(2) PROJECT TYPES.—The Secretary may pro-
22 vide technical assistance for, and participate in, any
23 of the following 3 types of groundwater recharge
24 projects (including the incorporation of groundwater

1 recharge projects into Yakima Project operations, as
2 appropriate):

3 “(A) Aquifer recharge projects designed to
4 redistribute Yakima Project water within a
5 water year for the purposes of supplementing
6 stream flow during the irrigation season, par-
7 ticularly during storage control, subject to the
8 condition that if such a project is designed to
9 supplement a mainstem reach, the water supply
10 that results from the project shall be credited to
11 instream flow targets, in lieu of using the total
12 water supply available to meet those targets.

13 “(B) Aquifer storage and recovery projects
14 that are designed, within a given water year or
15 over multiple water years—

16 “(i) to supplement or mitigate for mu-
17 nicipal uses;

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

20 “(iii) to mitigate the effect of ground-
21 water use on instream flow or senior water
22 rights.

23 “(C) Aquifer storage and recovery projects
24 designed to supplement existing irrigation water
25 supply, or to store water in subsurface aquifers,

1 for use by the Kittitas Reclamation District,
2 the Roza Irrigation District, or any other pro-
3 ratable irrigation entity participating in the re-
4 payment of the construction, operation, and
5 maintenance costs of the facilities under this
6 section during years in which the total water
7 supply available is insufficient to provide to
8 those proratable irrigation entities all water to
9 which the entities are entitled, subject to the
10 conditions that—

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

20 “(ii) nothing in this subparagraph af-
21 fects (as in existence on the date of enact-
22 ment of this section) any contract, law (in-
23 cluding regulations) relating to repayment
24 costs, water right, or Yakama Nation trea-
25 ty right.

1 “(d) FEDERAL COST-SHARE.—

2 “(1) IN GENERAL.—The Federal cost-share of a
3 project carried out under this section shall be deter-
4 mined in accordance with the applicable laws (in-
5 cluding regulations) and policies of the Bureau of
6 Reclamation.

7 “(2) INITIAL PHASE.—The Federal cost-share
8 for the initial development phase of the Integrated
9 Plan shall not exceed 50 percent of the total cost of
10 the initial development phase.

11 “(3) STATE AND OTHER CONTRIBUTIONS.—The
12 Secretary may accept as part of the non-Federal
13 cost-share of a project carried out under this section,
14 and expend as if appropriated, any contribution (in-
15 cluding in-kind services) by the State of Washington
16 or any other individual or entity that the Secretary
17 determines will enhance the conduct and completion
18 of the project.

19 “(4) LIMITATION ON USE OF OTHER FEDERAL
20 FUNDS.—Except as otherwise provided in this title,
21 other Federal funds may not be used to provide the
22 non-Federal cost-share of a project carried out
23 under this section.

24 “(e) SAVINGS AND CONTINGENCIES.—Nothing in this
25 section shall—

1 “(1) be a new or supplemental benefit for pur-
2 poses of the Reclamation Reform Act of 1982 (43
3 U.S.C. 390aa et seq.);

4 “(2) affect any contract in existence on the date
5 of enactment of the Yakima River Basin Water En-
6 hancement Project Phase III Act of 2015 that was
7 executed pursuant to the reclamation laws;

8 “(3) affect any contract or agreement between
9 the Bureau of Indian Affairs and the Bureau of
10 Reclamation;

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

14 “(5) constrain the continued authority of the
15 Secretary to provide fish passage in the Yakima
16 Basin in accordance with the Hoover Power Plant
17 Act of 1984 (43 U.S.C 619 et seq.).

18 **“SEC. 1214. OPERATIONAL CONTROL OF WATER SUPPLIES.**

19 “The Secretary shall retain authority and discretion
20 over the management of project supplies to optimize oper-
21 ational use and flexibility to ensure compliance with all
22 applicable Federal and State laws, treaty rights of the
23 Yakama Nation, and legal obligations, including those
24 contained in this Act. That authority and discretion in-
25 cludes the ability of the United States to store, deliver,

- 1 conserve, and reuse water supplies deriving from projects
- 2 authorized under this title.”.