

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2828, AS REPORTED
OFFERED BY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Water Supply, Reli-
3 ability, and Environmental Improvement Act”.

**4 TITLE I—CALIFORNIA WATER
5 SECURITY AND ENVIRON-
6 MENTAL ENHANCEMENT**

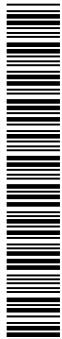
7 SEC. 101. SHORT TITLE.

8 This title may be cited as the “California Water Se-
9 curity and Environmental Enhancement Act”.

10 SEC. 102. DEFINITIONS.

11 In this title:

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



1 (2) CALIFORNIA BAY-DELTA AUTHORITY.—The
2 terms “California Bay-Delta Authority” and “Author-
3 ity” mean the California Bay-Delta Authority, as set
4 forth in the California Bay-Delta Authority Act
5 (Cal. Water Code 79400 et seq.).

6 (3) ENVIRONMENTAL WATER ACCOUNT.—The
7 term “Environmental Water Account” means the co-
8 operative management program established under
9 the Record of Decision.

10 (4) FEDERAL AGENCIES.—The term “Federal
11 agencies” means—

12 (A) the Department of the Interior,
13 including—

14 (i) the Bureau of Reclamation;

15 (ii) the United States Fish and Wild-
16 life Service:

17 (iii) the Bureau of Land Management;

18 and

19 (iv) the United States Geological Sur-
20 vey;

21 (B) the Environmental Protection Agency;

22 (C) the Army Corps of Engineers;

23 (D) the Department of Commerce, includ-
24 ing the National Marine Fisheries service (also
25 known as “NOAA Fisheries”);



1 (E) the Department of Agriculture,
2 including—

3 (i) the Natural Resources Conserva-
4 tion Service;

5 (ii) the Forest Service; and

6 (F) the Western Area Power Administra-
7 tion.

8 (5) GOVERNOR.—The term “Governor” means
9 the Governor of the State of California.

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

13 (7) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 (8) STATE.—The term “State” means the State
16 of California.

17 (9) STATE AGENCIES.—The term “State agen-
18 cies” means the California State agencies that are
19 signatories to Attachment 3 of the Record of Deci-
20 sion.

21 (10) WATER YIELD.—The term “water yield”
22 means a new quantity of water in storage that is re-
23 liably available in critically dry years for beneficial
24 uses.



1 **SEC. 103. BAY DELTA PROGRAM.**

2 (a) IN GENERAL.—

3 (1) RECORD OF DECISION AS GENERAL FRAME-
4 WORK.—The Record of Decision is approved as a
5 general framework for addressing the Calfed Bay-
6 Delta Program, including its components relating to
7 water storage and water yield, ecosystem restoration,
8 water supply reliability, conveyance, water use effi-
9 ciency, water quality, water transfers, watersheds,
10 the Environmental Water Account, levee stability,
11 governance, and science.

12 (2) REQUIREMENTS.—In General.— The Sec-
13 retary and the heads of the Federal agencies are au-
14 thorized to carry out the activities under this title
15 consistent with—

16 (A) the Record of Decision; and

17 (B) the requirement that Program activi-
18 ties consisting of protecting drinking water
19 quality, restoring ecological health, improving
20 water supply reliability (including additional
21 storage and conveyance) and water yield, and
22 protecting Delta levees will progress in a bal-
23 anced manner.

24 (b) AUTHORIZED ACTIVITIES.—

25 (1) IN GENERAL.—The Secretary and the heads
26 of the Federal agencies are authorized to carry out



1 the activities described in paragraphs (2) through
2 (5) in furtherance of the Calfed Bay-Delta Program
3 as set forth in the Record of Decision, subject to the
4 cost-share and other provisions of this title, if the
5 activity has been:

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

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

13 (2) MULTIPLE BENEFIT PROJECTS FAVORED.—
14 In selecting projects and programs for increasing
15 water yield and water supply, improving water qual-
16 ity, and enhancing environmental benefits, projects
17 and programs with multiple benefits shall be empha-
18 sized.

19 (3) BALANCE.—The Secretary shall ensure that
20 all elements of the Calfed Bay-Delta Program need
21 to be completed and operated cooperatively to main-
22 tain the balanced progress in all Calfed Bay-Delta
23 Program areas.

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



1 (A) SECRETARY OF THE INTERIOR.—The
2 Secretary of the Interior is authorized to carry
3 out the activities described in subparagraphs
4 (A) through (J) of paragraph (5), to the extent
5 authorized under the reclamation laws, the Cen-
6 tral Valley Project Improvement Act (title
7 XXXIV of Public Law 102–575; 106 Stat.
8 4706), the Fish and Wildlife Coordination Act
9 (16 U.S.C. 661 et seq.), the Endangered Spe-
10 cies Act of 1973 (16 U.S.C. 1531 et seq.), and
11 other applicable law.

12 (B) THE ADMINISTRATOR OF THE ENVI-
13 RONMENTAL PROTECTION AGENCY.—The Ad-
14 ministrator of the Environmental Protection
15 Agency may carry out the activities described in
16 subparagraphs (C), (E), (F), (G), (H), and (I)
17 of paragraph (5), in furtherance of the Califed
18 Bay-Delta program, to the extent authorized
19 under the Federal Water Pollution Control Act
20 (33 U.S.C. 1251 et seq.), the Safe Drinking
21 Water Act (42 U.S.C. 300f et seq.), and other
22 laws in effect on the day before the date of en-
23 actment of this title.

24 (C) THE SECRETARY OF THE ARMY.—The
25 Secretary of the Army may carry out the activi-



1 ties described in subparagraphs (B), (F), (G),
2 (H), and (I) of paragraph (5), in furtherance of
3 the CALFED Bay-Delta Program, to the ex-
4 tent authorized under flood control, water re-
5 source development, and other laws in effect on
6 the day before the date of enactment of this
7 title.

8 (D) SECRETARY OF COMMERCE.—The Sec-
9 retary of Commerce is authorized to carry out
10 the activities described in subparagraphs (B),
11 (F), (G), and (I) of paragraph (5), to the ex-
12 tent authorized under the Fish and Wildlife Co-
13 ordination Act (16 U.S.C. 661 et seq.), the En-
14 dangered Species Act of 1973 (16 U.S.C. 1531
15 et seq.), and other applicable law.

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



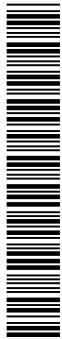
1 (5) DESCRIPTION OF ACTIVITIES UNDER EXIST-
2 ING AUTHORIZATIONS.—

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

6 (i) FEASIBILITY STUDIES AND RESO-
7 LUTION.—

8 (I) For purposes of implementing
9 the Calfed Bay-Delta Program, the
10 Secretary is authorized to undertake
11 all necessary planning activities and
12 feasibility studies required for the de-
13 velopment of recommendations by the
14 Secretary to Congress on the con-
15 struction and implementation of spe-
16 cific water supply and water yield
17 projects, and to conduct comprehen-
18 sive water management planning.

19 (II) FEASIBILITY STUDIES RE-
20 QUIREMENTS.—All feasibility studies
21 completed for storage projects as a re-
22 sult of this section shall include iden-
23 tification of project benefits and bene-
24 ficiaries and a cost allocation plan
25 consistent with the benefits to be re-



1 received, for both governmental and
2 non-governmental entities.

3 (III) DISAPPROVAL RESOLU-
4 TION.—If the Secretary determines a
5 project to be feasible, and meets the
6 requirements under subparagraph
7 (B), the report shall be submitted to
8 Congress. If Congress does not pass a
9 disapproval resolution of the feasi-
10 bility study during the first 120 days
11 before Congress (not including days
12 on which either the House of Rep-
13 resentatives or the Senate is not in
14 session because of an adjournment of
15 more than three calendar days to a
16 day certain) the project shall be au-
17 thorized, subject to appropriations.

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



1 (I) within the units of the Cen-
2 tral Valley Project;

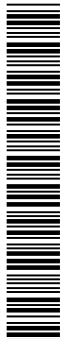
3 (II) within the area served by
4 Central Valley Project agricultural
5 water service contractors and munic-
6 ipal and industrial water service con-
7 tractors; and

8 (III) within the Bay-Delta solu-
9 tion area.

10 (iii) RELATIONSHIP TO PRIOR
11 STUDY.—The study under clause (ii) shall
12 incorporate and revise as necessary the
13 study required by section 3408(j) of the
14 Central Valley Project Improvement Act of
15 1992 (Public Law 102–575).

16 (iv) MANAGEMENT.—The Secretary
17 shall conduct activities related to devel-
18 oping groundwater storage projects to the
19 extent authorized under existing law.

20 (v) COMPREHENSIVE WATER PLAN-
21 NING.—The Secretary shall conduct activi-
22 ties related to comprehensive water man-
23 agement planning to the extent authorized
24 under existing law.



1 (vi) REPORT.—The Secretary shall
2 submit a report to the congressional au-
3 thorizing committees by not later than 180
4 days after the State’s completion of the
5 updated Bulletin 160 describing the fol-
6 lowing:

7 (I) Water yield and water supply
8 improvements, if any, for Central Val-
9 ley Project agricultural water service
10 contractors and municipal and indus-
11 trial water service contractors, includ-
12 ing those identified in Bulletin 160.

13 (II) All water management ac-
14 tions or projects, including those iden-
15 tified in Bulletin 160, that would im-
16 prove water yield or water supply and
17 that, if taken or constructed, would
18 balance available water supplies and
19 existing demand for those contractors
20 and other water users of the Bay-
21 Delta watershed with due recognition
22 of water right priorities and environ-
23 mental needs.



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

4 (IV) The beneficiaries of those
5 actions and projects and an assess-
6 ment of their willingness to pay the
7 capital costs and operation and main-
8 tenance costs thereof.

9 (B) CONVEYANCE.—

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

13 (I) The South Delta Improve-
14 ment Program through actions to ac-
15 complish the following:

16 (aa) Increase the State
17 Water Project export limit to
18 8,500 cfs.

19 (bb) Install permanent, op-
20 erable barriers in the south
21 Delta. The Federal Agencies
22 shall cooperate with the State to
23 accelerate installation of the per-
24 manent, operable barriers in the
25 south Delta, with the intent to



1 complete that installation not
2 later than the end of fiscal year
3 2007.

4 (cc) Increase the State
5 Water Project export to the max-
6 imum capability of 10,300 cfs.

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

12 (III) Evaluation of lower San
13 Joaquin River floodway improve-
14 ments.

15 (IV) Installation and operation of
16 temporary barriers in the south Delta
17 until fully operable barriers are con-
18 structed.

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

22 (VI) Actions to increase pumping
23 shall be accomplished in a manner
24 consistent with applicable law Cali-
25 fornia and Federal protecting—



1 (aa) deliveries to, costs of,
2 and water supplies for in-delta
3 water users, including in-delta
4 agricultural users that have his-
5 torically relied on water diverted
6 for use in the Delta;

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

10 (cc) water supplies for areas
11 of origin, and

12 (dd) Delta dependent native
13 fish species.

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

17 (I) evaluation and implementa-
18 tion of improved operational proce-
19 dures for the Delta Cross Channel to
20 address fishery and water quality con-
21 cerns;

22 (II) evaluation of a screened
23 through-Delta facility on the Sac-
24 ramento River; and



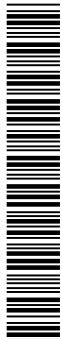
1 (III) evaluation of lower
2 Mokelumne River floodway improve-
3 ments.

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

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

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

17 (iv) PROGRAM TO MEET STAND-
18 ARDS.—Prior to increasing export limits
19 from the Delta for the purposes of con-
20 veying water to south-of-Delta Central Val-
21 ley Project contractors or increasing deliv-
22 eries through an intertie, the Secretary
23 shall, within one year of the date of enact-
24 ment of this title, in consultation with the
25 Governor, develop and initiate implementa-



1 tion of a program to meet all existing
2 water quality standards and objectives for
3 which the CVP has responsibility. In devel-
4 oping and implementing the program the
5 Secretary shall include, to the maximum
6 extent feasible, the following:

7 (I) A recirculation program to
8 provide flow, reduce salinity con-
9 centrations in the San Joaquin River,
10 and reduce the reliance on New
11 Melones Reservoir for meeting water
12 quality and fishery flow objectives
13 through the use of excess capacity in
14 export pumping and conveyance facili-
15 ties.

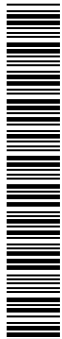
16 (II) The Secretary shall develop
17 and implement a best management
18 practices plan to reduce the impact of
19 the discharges from wildlife refuges
20 that receive water from the federal
21 government and discharge salt or
22 other constituents into the San Joa-
23 quin River. Such plan shall be devel-
24 oped in coordination with interested
25 parties in the San Joaquin Valley and



1 the Delta. The Secretary shall also co-
2 ordinate activities with other entities
3 that discharge water into the San
4 Joaquin River to reduce salinity con-
5 centrations discharged into the River,
6 including the timing of discharges to
7 optimize their assimilation.

8 (III) The acquisition from willing
9 sellers of water from streams tribu-
10 tary to the San Joaquin River or
11 other sources to provide flow, dilute
12 discharges from wildlife refuges, and
13 to improve water quality in the San
14 Joaquin River below the confluence of
15 the Merced and San Joaquin rivers
16 and to reduce the reliance on New
17 Melones Reservoir for meeting water
18 quality and fishery flow objectives.

19 (IV) Use of existing funding
20 mechanisms.--In implementing the
21 Program, the Secretary may use
22 money collected pursuant to Section
23 3407 of the Central Valley Project
24 Improvement Act (Public Law 102-
25 575; 106 Stat. 4727) to acquire from



1 voluntary sellers water from streams
2 tributary to the San Joaquin River or
3 other sources for the purposes set
4 forth in subclauses (I) through (III)
5 of clause (iv).

6 (V) The purpose of the authority
7 and direction provided to the Sec-
8 retary in clause (iv) is to provide
9 greater flexibility in meeting the exist-
10 ing water quality standards and objec-
11 tives for which the Central Valley
12 Project has responsibility so as to re-
13 duce the demand on water from New
14 Melones Reservoir used for that pur-
15 pose and to allow the Secretary to
16 meet with greater frequency the Sec-
17 retary's obligations to Central Valley
18 Project contractors from the New
19 Melones Project. The Secretary shall
20 update the New Melones operating
21 plan to consider, among other things,
22 the actions outlined in this Act de-
23 signed to reduce the reliance on new
24 Melones Reservoir for meeting water
25 quality and fishery flow objectives and



1 to insure that operation of New
2 Melones Reservoir is governed by the
3 best available science.

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

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

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

12 (iii) water recycling and desalination
13 projects, including groundwater remedi-
14 ation projects and projects identified in the
15 Bay Area Water Plan and the Southern
16 California Comprehensive Water Reclama-
17 tion and Reuse Study and other projects,
18 giving priority to projects that include re-
19 gional solutions to benefit regional water
20 supply and reliability needs;

21 (I) The Secretary shall review
22 any feasibility level studies for sea-
23 water desalination and regional brine
24 line projects that have been com-
25 pleted, whether or not those studies



1 were prepared with financial assist-
2 ance from the Secretary.

3 (II) The Secretary shall report to
4 the Congress not later than 90 days
5 after the completion of a feasibility
6 study or the review of a feasibility
7 study. For the purposes of this Act,
8 the Secretary is authorized to provide
9 assistance for projects as set forth
10 and pursuant to the existing require-
11 ments of the Reclamation Wastewater
12 and Groundwater Study and Facilities
13 Act (Public Law 102-9575; title 16)
14 as amended, and Reclamation Recy-
15 cling and Water Conservation Act of
16 1996 (Public Law 104-266).

17 (iv) water measurement and transfer
18 actions;

19 (v) implementation of best manage-
20 ment practices for urban water conserva-
21 tion; and

22 (vi) projects identified in the Southern
23 California Comprehensive Water Reclama-
24 tion and Reuse Study, dated April 2001
25 and authorized by section 1606 of the Rec-



1 lamation Wastewater and Groundwater
2 Study and Facilities Act (43 U.S.C. 390h-
3 4); and the San Francisco Bay Area Re-
4 gional Water Recycling Program described
5 in the San Francisco Bay Area Regional
6 Water Recycling Program Recycled Water
7 Master Plan, dated December 1999 and
8 authorized by section 1611 of the Rec-
9 lamation Wastewater and Groundwater
10 Study and Facilities Act (43 U.S.C. 390h-
11 9) are determined to be feasible.

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

14 (i) increasing the availability of exist-
15 ing facilities for water transfers;

16 (ii) lowering transaction costs through
17 regulatory coordination; and

18 (iii) maintaining a water transfer in-
19 formation clearinghouse.

20 (E) INTEGRATED REGIONAL WATER MAN-
21 AGEMENT PLANS.—Activities under this sub-
22 paragraph consist of assisting local and regional
23 communities in the State in developing and im-
24 plementing integrated regional water manage-
25 ment plans to carry out projects and programs



1 that improve water supply reliability, water
2 quality, ecosystem restoration, and flood protec-
3 tion, or meet other local and regional needs, in
4 a manner that is consistent with, and makes a
5 significant contribution to, the Calfed Bay-
6 Delta Program.

7 (F) ECOSYSTEM RESTORATION.—

8 (i) ACTIVITIES UNDER THIS SUBPARA-
9 GRAPH CONSIST OF—

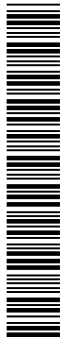
10 (I) implementation of large-scale
11 restoration projects in San Francisco
12 Bay and the Delta and its tributaries;

13 (II) restoration of habitat in the
14 Delta, San Pablo Bay, and Suisun
15 Bay and Marsh, including tidal wet-
16 land and riparian habitat;

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

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

24 (V) development and integration
25 of Federal and State agricultural pro-



1 grams that benefit wildlife into the
2 Ecosystem Restoration Program;

3 (VI) financial and technical sup-
4 port for locally-based collaborative
5 programs to restore habitat while ad-
6 dressing the concerns of local commu-
7 nities;

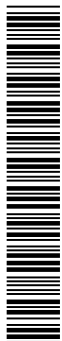
8 (VII) water quality improvement
9 projects to manage and reduce con-
10 centrations of salinity, selenium, mer-
11 cury, pesticides, trace metals, dis-
12 solved oxygen, turbidity, sediment,
13 and other pollutants;

14 (VIII) land and water acquisi-
15 tions to improve habitat and fish
16 spawning and survival in the Delta
17 and its tributaries;

18 (IX) integrated flood manage-
19 ment, ecosystem restoration, and levee
20 protection projects;

21 (X) scientific evaluations and tar-
22 geted research on Program activities;
23 and

24 (XI) strategic planning and
25 tracking of Program performance.



1 (ii) ANNUAL ECOSYSTEM PROGRAM
2 PLAN.—

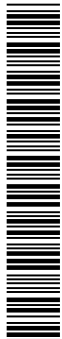
3 (I) Prior to October 1 of each
4 year, with respect to an ecosystem
5 restoration action carried out by or
6 for the Secretary, the Secretary shall
7 submit an annual ecosystem program
8 plan report to the appropriate author-
9 izing and appropriating committees of
10 the Senate and the House of Rep-
11 resentatives. The purpose of the re-
12 port is to describe the projects and
13 programs to implement the activities
14 under this subsection in the following
15 fiscal year, and to establish priorities
16 for funding in subsequent years. For
17 the ecosystem program, and each eco-
18 system project the report shall
19 describe—

20 (aa) the goals and objectives

21 (bb) program accomplish-
22 ments,

23 (cc) major activities,

24 (dd) the administration re-
25 sponsibilities of land and water



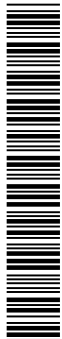
1 areas and associated environ-
2 mental resources, in the affected
3 project area including an ac-
4 counting of all habitat types.
5 Cost-share arrangements with co-
6 operating agencies should be in-
7 cluded in the report, and

8 (ee) the resource data and
9 ecological monitoring data to be
10 collected for the restoration
11 projects and how the data are to
12 be integrated, streamlined, and
13 designed to measure the effec-
14 tiveness and overall trend of eco-
15 system health in the Bay-Delta
16 watershed;

17 (ff) implementation sched-
18 ules and budgets;

19 (gg) monitoring programs
20 and performance measures; and

21 (hh) the status and effec-
22 tiveness of minimizing and miti-
23 gating the impacts of the pro-
24 gram on agricultural lands.



1 (ii) a description of expected
2 benefits of the restoration pro-
3 gram relative to the cost.

4 (II) For Federal projects and
5 programs to be carried out by or for
6 the Secretary not specifically identi-
7 fied in the annual program plans the
8 Secretary, in coordination with the
9 State, shall submit recommendations
10 on proposed plans, no later than 45
11 days prior to approval, to the Senate
12 Committee on Energy and Natural
13 Resources, the House Resources Com-
14 mittee, and the public. The rec-
15 ommendations shall—

16 (aa) describe the project se-
17 lection process, including the
18 level of public involvement and
19 independent science review;

20 (bb) describe the goals, ob-
21 jectives, and implementation
22 schedule of the projects, and the
23 extent to which the projects ad-
24 dress regional and programmatic
25 goals and priorities;



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

6 (dd) identify any cost-shar-
7 ing arrangements with cooper-
8 ating entities; and

9 (ee) identify how the pro-
10 posed projects will comply with
11 all applicable Federal and State
12 laws, including the National En-
13 vironmental Policy Act.

14 (III) Projects involving acquisi-
15 tion of private lands shall be included
16 in subsection (I) of the Annual Eco-
17 system Program Plan. Each project
18 identified shall—

19 (aa) describe the process
20 and timing of notification of in-
21 terested members of the public
22 and local governments;

23 (bb) minimize and mitigate
24 impacts on agricultural lands;



1 (cc) include preliminary
2 management plans for all prop-
3 erties to be acquired with Federal
4 funds. Such preliminary manage-
5 ment plans shall include an over-
6 view of existing conditions, the
7 expected ecological benefits, pre-
8 liminary cost estimates, and im-
9 plementation schedules;

10 (dd) identify federal land ac-
11 quisition in total, by a county by
12 county basis; and,

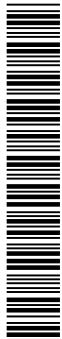
13 (ee) provide a finding of
14 consistency with all applicable
15 State and Federal law.

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

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

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

23 (iii) developing and implementing lo-
24 cally-based watershed conservation, main-
25 tenance, and restoration actions.



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

3 (i) addressing drainage problems in
4 the San Joaquin Valley to improve down-
5 stream water quality (including habitat
6 restoration projects that reduce drainage
7 and improve water quality) if—

8 (I) a plan is in place for moni-
9 toring downstream water quality im-
10 provements;

11 (II) State and local agencies are
12 consulted on the activities to be fund-
13 ed; and

14 (III) except that no right, ben-
15 efit, or privilege is created as a result
16 of this clause;

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

19 (iii) developing recommendations
20 through scientific panels and advisory
21 council processes to meet the Califed Bay-
22 Delta Program goal of continuous improve-
23 ment in Delta water quality for all uses;

24 (iv) investing in treatment technology
25 demonstration projects;



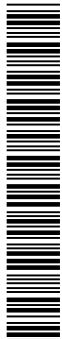
1 (v) controlling runoff into the Cali-
2 fornia aqueduct, the Delta-Mendota Canal,
3 and other similar conveyances;

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

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

13 (I) connections between aque-
14 ducts, water transfers, water con-
15 servation measures, institutional ar-
16 rangements, and infrastructure im-
17 provements that encourage regional
18 approaches; and

19 (II) investigations and studies of
20 available capacity in a project to de-
21 liver water to the East Bay Municipal
22 Utility District under its contract with
23 the Bureau of Reclamation, dated
24 July 20, 2001, in order to determine



1 if such capacity can be used to meet
2 the objectives of this clause;

3 (viii) development of water quality ex-
4 changes and other programs to make high
5 quality water available for urban and other
6 users;

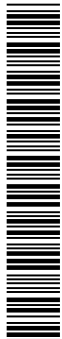
7 (ix) development and implementation
8 of a plan to meet all water quality stand-
9 ards for which the Federal and State water
10 projects have responsibility;

11 (x) development of recommendations
12 through technical panels and advisory
13 council processes to meet the Calfed Bay-
14 Delta Program goal of continuous improve-
15 ment in water quality for all uses; and

16 (xi) projects that may meet the frame-
17 work of the water quality component of the
18 Calfed Bay-Delta Program.

19 (I) SCIENCE.—Activities under this sub-
20 paragraph consist of—

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



1 (ii) conducting expert evaluations and
2 scientific assessments of all Program ele-
3 ments;

4 (iii) coordinating existing monitoring
5 and scientific research programs;

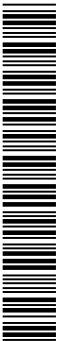
6 (iv) developing and implementing
7 adaptive management experiments to test,
8 refine, and improve scientific under-
9 standings;

10 (v) establishing performance meas-
11 ures, and monitoring and evaluating the
12 performance of all Program elements; and

13 (vi) preparing an annual science re-
14 port.

15 (J) DIVERSIFICATION OF WATER SUP-
16 PLIES.—Activities under this subparagraph con-
17 sist of actions to diversify sources of level 2 ref-
18 uge supplies and modes of delivery to refuges
19 while maintaining the diversity of level 4 sup-
20 plies pursuant to Central Valley Project Im-
21 provement Act section 3406(d)(2), Public Law
22 102–575 (106 Stat. 4723).

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

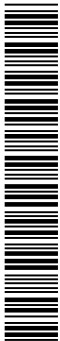


1 (A) SECRETARY OF THE INTERIOR.—The
2 Secretary of the Interior is authorized to carry
3 out the activities described in subparagraphs
4 (A) , (B), (C) and (D) of paragraph (7) during
5 each of fiscal years 2005 through 2008, in co-
6 ordination with the State of California.

7 (B) THE ADMINISTRATOR OF THE ENVI-
8 RONMENTAL PROTECTION AGENCY AND THE
9 SECRETARY OF THE ARMY.—The Administrator
10 of the Environmental Protection Agency and
11 the Secretary of the Army may carry out activi-
12 ties described in subparagraph (D) of para-
13 graph 7 during each of fiscal years 2005
14 through 2008, in coordination with the State of
15 California.

16 (C) THE SECRETARIES OF AGRICULTURE
17 AND COMMERCE.—The Secretary of Commerce,
18 and the Department of Agriculture, are author-
19 ized to carry out the activities described in
20 paragraph (7)(D) during each of fiscal years
21 2005 through 2008, in coordination with the
22 State of California.

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



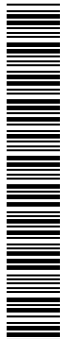
1 (A) CONVEYANCE.—Of the amounts au-
2 thorized to be appropriated under section 109,
3 not more than \$184,000,000 may be expended
4 for the following:

5 (i) Feasibility studies, evaluation, and
6 implementation of the San Luis Reservoir
7 lowpoint improvement project and in-
8 creased capacity of the intertie between the
9 SWP California Aqueduct and the CVP
10 Delta Mendota Canal, near the City of
11 Tracy.

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

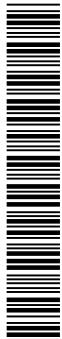
15 (iii) Feasibility studies and design of
16 fish screen and intake facilities at Clifton
17 Court Forebay and the Tracy Pumping
18 Plant facilities.

19 (iv) Design and construction of the re-
20 location of drinking water intake facilities
21 to delta water users. The Secretary shall
22 coordinate actions for relocating intake fa-
23 cilities on a time schedule consistent with
24 subparagraph (5)(B)(i)(I)(bb) or other ac-
25 tions necessary to offset the degradation of



1 drinking water quality in the Delta due to
2 the South Delta Improvement Program.

3 (v) In addition to the other authoriza-
4 tions granted to the Secretary by this title,
5 the Secretary shall acquire water from will-
6 ing sellers and undertake other actions de-
7 signed to decrease releases from New
8 Melones Reservoir for meeting water qual-
9 ity standards and flow objectives for which
10 the Central Valley Project has responsi-
11 bility in order to meet allocations to Cen-
12 tral Valley Project contractors from the
13 New Melones Project. The authorization
14 under this provision is solely meant to add
15 flexibility for the Secretary to meet the
16 Secretary's obligation to the Central Valley
17 Project contractors from the New Melones
18 Project by reducing demand for water
19 dedicated to meeting water quality stand-
20 ards in the San Joaquin River. Of the
21 amounts authorized to be appropriated
22 under paragraph (7)(A), not more than
23 \$15,260,000 may be expended for this pur-
24 pose.



1 (B) ENVIRONMENTAL WATER ACCOUNT.—

2 Of the amounts authorized to be appropriated
3 under section 109, not more than \$90,000,000
4 may be expended for implementation of the En-
5 vironmental Water Account; *Provided* That
6 such expenditures shall be considered a non-
7 reimbursable Federal expenditure.

8 (C) LEVEE STABILITY.—Of the amounts
9 authorized to be appropriated under section
10 109, not more than \$90,000,000 may be ex-
11 pended for—

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

14 (ii) enhancing the stability of levees
15 that have particular importance in the sys-
16 tem through the Delta Levee Special Im-
17 provement Projects program;

18 (iii) developing best management
19 practices to control and reverse land sub-
20 sidence on Delta islands;

21 (iv) refining the Delta Emergency
22 Management Plan;

23 (v) developing a Delta Risk Manage-
24 ment Strategy after assessing the con-
25 sequences of Delta levee failure from



1 floods, seepage, subsidence, and earth-
2 quakes;

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

5 (vii) evaluating, and where appro-
6 priate, rehabilitating the Suisun Marsh lev-
7 ees; and

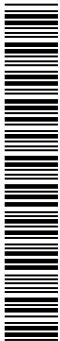
8 (D) PROGRAM MANAGEMENT, OVERSIGHT,
9 AND COORDINATION.—Of the amounts author-
10 ized to be appropriated under section 109, not
11 more than \$25,000,000 may be expended by
12 the Secretary or the other heads of Federal
13 agencies, either directly or through grants, con-
14 tracts, or cooperative agreements with agencies
15 of the State, for—

16 (i) program support;

17 (ii) program-wide tracking of sched-
18 ules, finances, and performance;

19 (iii) multiagency oversight and coordi-
20 nation of Program activities to ensure Pro-
21 gram balance and integration;

22 (iv) development of interagency cross-
23 cut budgets and a comprehensive finance
24 plan to allocate costs in accordance with



1 the beneficiary pays provisions of the
2 Record of Decision;

3 (v) coordination of public outreach
4 and involvement, including tribal, environ-
5 mental justice, and public advisory activi-
6 ties in accordance with the Federal Advi-
7 sory Committee Act (5 U.S.C. App.); and

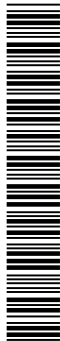
8 (vi) development of Annual Reports.

9 **SEC. 104. MANAGEMENT.**

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

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

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



1 (1) all major aspects of implementing the Pro-
2 gram are subjected to credible and objective sci-
3 entific review; and

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

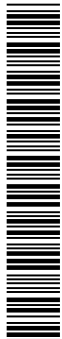
6 (d) ENVIRONMENTAL JUSTICE.—The Federal agen-
7 cies and State agencies, consistent with Executive Order
8 12898 (59 FR Fed. Reg. 7629), should continue to col-
9 laborate to—

10 (1) develop a comprehensive environmental jus-
11 tice workplan for the Calfed Bay-Delta Program;
12 and

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

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

22 (f) AGENCIES' DISCRETION.—This title shall not af-
23 fect the discretion of any of the Federal agencies or the
24 State agencies or the authority granted to any of the Fed-



1 eral agencies or State agencies by any other Federal or
2 State law.

3 (g) NO NEW AUTHORITY.—The United States Envi-
4 ronmental Protection Agency and the United States Army
5 Corps of Engineers.—

6 (1) IN GENERAL.—Nothing in this title confers
7 any new authority, except as provided under section
8 103(b)(7)(D) to the United States Environmental
9 Protection Agency and the United States Army
10 Corps of Engineers.

11 (2) COORDINATION.—In carrying out activities
12 identified in the Record of Decision under authori-
13 ties provided under other provisions of law, the
14 United States Environmental Protection Agency and
15 the United States army Corps of Engineers shall co-
16 ordinate such activities with Federal agencies and
17 State agencies.

18 (h) GOVERNANCE.—

19 (1) IN GENERAL.—In carrying out the Califed
20 Bay-Delta Program, the Secretary and the Federal
21 agency heads may participate as nonvoting members
22 of the California Bay-Delta Authority, as established
23 in the California Bay-Delta Authority Act (Cal.
24 Water Code 79400 et seq.), to the extent consistent
25 with Federal law, for the full duration of the period



1 the Authority continues to be authorized by State
2 law.

3 **SEC. 105. REPORTING REQUIREMENTS.**

4 (a) REPORT.—

5 (1) IN GENERAL.—Not later than February 15
6 of each year, the Secretary, in cooperation with the
7 Governor, shall submit to the appropriate author-
8 izing and appropriating Committees of the Senate
9 and the House of Representatives a report that—

10 (A) describes the status of implementation
11 of all components of the Calfed Bay-Delta Pro-
12 gram;

13 (B) sets forth any written determination
14 resulting from the review required under sub-
15 section (b); and

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

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

20 (A) the progress of the Calfed Bay-Delta
21 Program in meeting the implementation sched-
22 ule for the Program in a manner consistent
23 with the Record of Decision;

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



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

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

6 (i) water storage, including water
7 yield;

8 (ii) water quality; including the
9 progress in achieving the water supply tar-
10 gets as described in Section 2.2.4 of the
11 Record of Decision, the environmental
12 water account requirements as described in
13 Section 2.2.7, and the water quality tar-
14 gets as described in Section 2.2.9, and any
15 pending actions that may affect the ability
16 of the Calfed Bay-Delta Program to
17 achieve those targets and requirements.

18 (iii) water use efficiency;

19 (iv) ecosystem restoration;

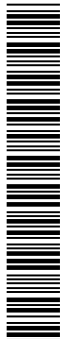
20 (v) watershed management;

21 (vi) levee system integrity;

22 (vii) water transfers;

23 (viii) water conveyance; and

24 (ix) water supply reliability;



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

3 (F) progress on—

4 (i) storage projects;

5 (ii) conveyance improvements;

6 (iii) levee improvements;

7 (iv) water quality projects; and

8 (v) water use efficiency programs;

9 (G) completion of key projects and mile-
10 stones identified in the Ecosystem Restoration
11 Program; including progress on project effec-
12 tiveness, monitoring, and accomplishments;

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

16 (I) progress in improving water supply reli-
17 ability and implementing the Environmental
18 Water Account;

19 (J) achievement of commitments under the
20 Endangered Species Act of 1973 (16 U.S.C.
21 1531 et seq.) and endangered species law of the
22 State;

23 (K) implementation of a comprehensive
24 science program;

25 (i) progress on project effectiveness;



1 (L) progress toward acquisition of the
2 Federal and State permits (including permits
3 under section 404(a) of the Federal Water Pol-
4 lution Control Act (33 U.S.C. 1344(a))) for im-
5 plementation of projects in all identified Pro-
6 gram areas;

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

9 (N) legislative action on—

- 10 (i) water transfer;
11 (ii) groundwater management;
12 (iii) water use efficiency; and
13 (iv) governance issues;

14 (O) the status of complementary actions;

15 (P) the status of mitigation measures;

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

18 (R) a list of all existing authorities, includ-
19 ing the authorities listed in section 103(b)(4)
20 provided by the relevant Federal agency, under
21 which the Secretary or the heads of the Federal
22 agencies may carry out the purposes of this
23 title.”

24 (b) ANNUAL REVIEW OF PROGRESS AND BAL-
25 ANCE.—



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

5 (A) consistency with the Record of Deci-
6 sion; and

7 (B) balance in achieving the goals and ob-
8 jectives of the Calfed Bay-Delta Program.

9 (2) REVISED SCHEDULE.—If, at the conclusion
10 of each such annual review or if a timely annual re-
11 view is not undertaken, the Secretary, or the Gov-
12 ernor, determine in writing that either the Program
13 implementation schedule has not been substantially
14 adhered to, or that balanced progress in achieving
15 the goals and objectives of the Program is not occur-
16 ring, the Secretary, in coordination with the Gov-
17 ernor and the Bay-Delta Public Advisory Committee,
18 shall prepare a revised schedule to achieve balanced
19 progress in all Calfed Bay-Delta Program elements
20 consistent with the Record of Decision.

21 (c) FEASIBILITY STUDIES.—Any feasibility studies
22 completed as a result of this title shall include identifica-
23 tion of project benefits and a cost allocation plan con-
24 sistent with the beneficiaries pay provisions of the Record
25 of Decision.



1 **SEC. 106. CROSSCUT BUDGET.**

2 (a) IN GENERAL.—The President’s budget shall in-
3 clude such requests as the President considers necessary
4 and appropriate for the level of funding for each of the
5 Federal agencies to carry out its responsibilities under the
6 Calfed Bay-Delta Program.

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

12 (c) REPORT.—Not later than 30 days after the sub-
13 mission of the budget of the President to Congress, the
14 Director of the Office of Management and Budget, in co-
15 ordination with the Governor, shall submit to the appro-
16 priate authorizing and appropriating committees of the
17 Senate and the House of Representatives a financial re-
18 port certified by the Secretary containing—

19 (1) an interagency budget crosscut report
20 that—

21 (A) displays the budget proposed, including
22 any interagency or intra-agency transfer, for
23 each of the Federal agencies to carry out the
24 Calfed Bay-Delta Program for the upcoming
25 fiscal year, separately showing funding re-
26 quested under both pre-existing authorities and



1 under the new authorities granted by this title;
2 and

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

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

11 (3) a budget for the proposed projects (includ-
12 ing a description of the project, authorization level,
13 and project status) to be carried out in the upcom-
14 ing fiscal year with the Federal portion of funds for
15 activities under section 103(b); and

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

19 **SEC. 107. FEDERAL SHARE OF COSTS.**

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

24 (b) CALFED BAY-DELTA PROGRAM BENE-
25 FICIARIES.—The Secretary shall ensure that all bene-



1 ficiaries, including the environment, shall pay for benefits
2 received from all projects or activities carried out under
3 the Calfed Bay-Delta Program. This requirement shall not
4 be limited to storage and conveyance projects and shall
5 be implemented so as to encourage integrated resource
6 planning.

7 **SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.**

8 Nothing in this title—

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

11 (2) alters the rights of any State to any appro-
12 priated share of the waters of any body of surface
13 or ground water;

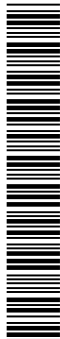
14 (3) preempts or modifies any State or Federal
15 law or interstate compact governing water quality or
16 disposal; or

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

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

23 **SEC. 109. AUTHORIZATION OF APPROPRIATION.**

24 There are authorized to be appropriated to the Sec-
25 retary and the heads of the Federal agencies to pay the



1 Federal share of the cost of carrying out the new and ex-
2 panded authorities described in paragraphs (6) and (7)
3 of section 103(b), \$389,000,000 for the period of fiscal
4 years 2005 through 2008, to remain available until ex-
5 pended.

6 **TITLE II—SALTON SEA STUDY**
7 **PROGRAM**

8 **SEC. 201. SALTON SEA STUDY PROGRAM.**

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

12 (b) REQUIREMENTS.—The study referred to in sub-
13 section (a) shall consider each of the following:

- 14 (1) Appraisal investigations.
15 (2) Feasibility studies.
16 (3) Environmental Reports.
17 (4) Cost sharing responsibilities.
18 (5) Responsibility for operation and mainte-
19 nance.

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

