102D CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
102-1016

# RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

OCTOBER 5, 1992.—Ordered to be printed

Mr. MILLER of California, from the committee of conference, submitted the following

## CONFERENCE REPORT

[To accompany H.R. 429]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 429), to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu, of the matter proposed to be inserted by the Senate amendment, insert the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".*

***SEC. 2. DEFINITION AND TABLE OF CONTENTS.***

*For purposes of this Act, the term "Secretary" means the Secretary of the Interior.*

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# *TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING*

***SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.***

*Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:*

*(a) In the second sentence of section 101, by striking "replacing*

*power generating facilities with a total installed capacity of 25.5 megawatts,".*

*(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".*

*(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.*

*(d) There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities: Provided, that such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.*

## *TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION*

***SECTION 200. SHORT TITLE AND DEFINITIONS FOR TITLES II-VI.***

*(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".*

*(b) DEFINITIONS.—For the purposes of titles II–VI of this Act:*

*(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.*

*(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.*

*(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.*

*(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.*

*(5) The term "District" means the Central Utah Water Conservancy District.*

*(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.*

*(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the Di-*

*(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.*

*(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.*

*(10) The term "project" means the Central Utah Project.*

*(11) The term "public involvement" means to request comment on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.*

*(12) The term "Secretary" means the Secretary of the Interior.*

*(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).*

*(14) The term "State" means the State of Utah, its political subdivisions, or its designee.*

*(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 30, 1990.*

***SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.***

*(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the*

*projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.*

*(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.*

*(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:*

*(1) Fish and wildlife features:*

*(A) The dam in Bjorkman Hollow;*

*(B) The Deep Creek pumping plant;*

*(C) The North Fork pumping plant;*

*(2) Water development projects and features:*

*(A) Mosida pumping plant, canals, and laterals;*

*(B) Draining of Benjamin Slough;*

*(C) Diking of Goshen or Provo Bays in Utah Lake;*

*(D) Ute Indian Unit;*

*(E) Leland Bench development;*

*(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.*

*Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.*

*(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.*

*(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety to the District and the Commission as provided for pursuant to the provisions of this Act.*

*(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this*

*Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.*

***SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.***

*(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:*

*(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriate for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.*

*(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—*

*(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in subparagraph (B) of this paragraph;*

*(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or*

*(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.*

*Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).*

*(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.*

*(D) in lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by*

*Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).*

*(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.*

*(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.*

*(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in Section 207(e)(2) for related purposes.*

*(C) The feasibility study and the Project construction authorization shall be subject to the non-federal contribution requirements of Section 204.*

*(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—*

*(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this subparagraph; or*

*(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.*

*(E) Amounts authorized to carry out subparagraph (B) may not*

*binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.*

*(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).*

*(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.*

*(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:*

*(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady state conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and*

*(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize Section 8 funds which may be available from FY 1993 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.*

*(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available funds, the U.S. Geological Survey is directed to consult with the District in the preparation of the study identified in subparagraph (5)(A)(1).*

*(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Dia-*

*(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.*

*(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.*

*(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within Sections 2 and 13, T. 3 S., R. 12 W., and Sections 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.*

*(c) The Secretary is authorized to utilize any unexpended budget authority provided in title II and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, of engineering, design, and construction of Hatchtown dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown dam. The District shall establish a viable minimum conservation pool in Hatchtown dam and shall ensure maintenance of viable instream flows in the Sevier River between Hatchtown dam and the Piute dam with the concurrence of the Commission and in consultation with the Division of Wildlife Resources of the State of Utah. The District shall comply with the provisions of section 202(a)(1) with respect to the features to be provided for in this subparagraph.*

***SEC. 203. UINTA BASIN REPLACEMENT PROJECT.***

*(a) IN GENERAL.—Of the amounts authorized to be appropriated*

*ciency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:*

*(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.*

*(2) $2,987,000 for the construction of McGuire Draw Reservoir.*

*(3) $7,669,000 for the construction of Clay Basin Reservoir.*

*(4) $4,000,000 for the rehabilitation of Farnsworth Canal.*

*(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.*

*(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—*

*(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—*

*(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this paragraph; or*

*(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;*

*(2) shall expire if the Secretary determines that such feature is not feasible.*

*(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.*

*(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived*

*203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.*

*(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).*

*(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—*

*(A) administer the Uintah Indian Irrigation Project, or part thereof, and*

*(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.*

*(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.*

*(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.*

*(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the*

*inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.*

***SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.***

*(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.*

*(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—*

*(A) in which there are no binding contracts as required under section 202(1)(C); or*

*(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.*

*(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65% of the cost of implementation of measures identified in paragraph (2).*

*(2)(A) The grant provided for in this subsection shall be available for the following purposes:*

*(i) Potable water distribution and treatment.*

*(ii) Wastewater collection and treatment.*

*(iii) Agricultural water management.*

*(iv) Other public infrastructure improvements as may be approved by the Secretary.*

*(B) Funds made available under this subsection may not be used for—*

*(i) draining of wetlands;*

*(ii) dredging of natural water courses;*

*(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.*

*(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.*

*(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.*

***SEC. 207. WATER MANAGEMENT IMPROVEMENT.***

*(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—*

*(1) encourage the conservation and wise use of water;*

*(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;*

*(3) achieve beneficial reductions in water use and system*

*(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;*

*(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and*

*(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.*

*(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.*

*(1) ELEMENTS.—The plan shall include the following elements:*

*(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:*

*(i) 25% of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or*

*(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10% of recorded annual water deliveries.*

*The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.*

*(B) A water management improvement inventory, containing—*

*(i) conservation measures to improve the efficiency*

*water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);*

*(ii) the estimated economic and financial costs of each such measure;*

*(iii) the estimated water yield of each such measure; and,*

*(iv) the socioeconomic and environmental effects of each such measure.*

*(C) A comparative analysis of each cost-effective and environmentally acceptable measure.*

*(D) A schedule of implementation for the following five years.*

*(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.*

*Not less than 90 days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.*

*(2) EVALUATION OF CONSERVATION MEASURES.—*

*(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.*

*(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account.*

*(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of*

*(ii) the reduced cost of wastewater treatment, if any;*

*(iii) net additional hydroelectric power generation, if any, valued at avoided cost;*

*(iv) net savings in operation, maintenance, and replacement costs; and*

*(v) net savings in on-farm costs.*

*(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50% of the water conservation goal within seven years after submission of the initial plan and 100% of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—*

*(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;*

*(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and*

*(C) found to be in the public interest.*

*(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the U.S. Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.*

*(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous proc-*

*water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.*

*(c) WATER CONSERVATION PRICING STUDY.—*

*(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.*

*(2) The purposes of this study are:*

*(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;*

*(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;*

*(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and*

*(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.*

*(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:*

*(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;*

*(B) seasonal rate differentials;*

*(C) drought year surcharges;*

*(D) increasing block rate schedules;*

*(E) marginal cost pricing;*

*(F) rates accounting for differences in costs based upon point of delivery; and*

*(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.*

*The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).*

*(4) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.*

*(5) Nothing in this subsection shall be deemed to authorize*

*ers of project water, to require the implementation of any policies or recommendations contained in the study.*

*(d) STUDY OF COORDINATED OPERATIONS.—*

*(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will:*

*(A) improve the availability and reliability of water supply;*

*(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;*

*(C) assist in managing drought emergencies by making more efficient use of facilities;*

*(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;*

*(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;*

*(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and*

*(G) integrate management of surface and groundwater supplies and storage capability.*

*The District may incorporate measures developed by the study of the Water Management Improvement Plan prepared under subsection (b).*

*(2) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.*

*(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50% of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.*

*(2) For an amount not to exceed 65% of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be ap-*

*propriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.*

*(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.*

*(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:*

*(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)*

*(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;*

*(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;*

*(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;*

*(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;*

*(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;*

*(G) requirements for the insulation of hot water pipes in all new construction;*

*(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems;*

*(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and*

*(J) elimination of evaporation as a principal method of wastewater treatment.*

*(3) Any water conserved by implementation of subparagraphs*

*conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).*

*(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.*

*(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgement of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.*

*(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.*

*(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:*

*(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary.*

*(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and*

*(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, fifteen percent of the District's annual Bonneville Unit repayment obligation to the Secretary.*

*(2) If the Secretary determines that compliance has been accomplished within 12 months after the first determination of substantial noncompliance, the Secretary shall refund 100% of the surcharge levied.*

*(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.*

*(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of Title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.*

*(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of Title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or*

*(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.*

*(j) CITIZEN SUITS.—(1) In General.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.*

*(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.*

*(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before 60 days after written notice of the violation has been given to the Secretary.*

*(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.*

*(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.*

*(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.*

*(5) DISCLAMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.*

*(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.*

***SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.***

*(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).*

*(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.*

***SEC. 209. OPERATING AGREEMENTS.***

*The district, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.*

***SEC. 210. JORDAN AQUEDUCT PREPAYMENT.***

*Under such terms as the Secretary may prescribe, and within*

*allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.*

***SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.***

*Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.*

***SEC. 212. SURPLUS CORPS.***

*Notwithstanding any other provision of law relating to a charge for irrigation water supplies to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.*

# *TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION*

***SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.***

*(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.*

*(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.*

*(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.*

*(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.*

*(c) DUTIES.—The Commission shall—*

*(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;*

*(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;*

*(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and*

*(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).*

*(d) MEMBERSHIP.—(1) The Commission shall be composed of 5 members appointed by the President within six months of the date of enactment of this Act, as follows:*

*(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experi-*

*matters, submitted by the Speaker of the House of Representatives representing the State.*

*(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the members of the Senate representing the State.*

*(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.*

*(D) 1 from a list of residents of the State submitted by the District.*

*(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.*

*(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of 4 years.*

*(B) Of the members first appointed—*

*(i) the member appointed under paragraph (1)(C) shall be appointed for a term of 3 years; and*

*(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of 2 years.*

*(3) A vacancy in the Commission shall be filled within 90 days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.*

*(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.*

*(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.*

*(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.*

*(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.*

*(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.*

*(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the*

*(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.*

*(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.*

*(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.*

*(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.*

*(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.*

*(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.*

*(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.*

*(3) FUNDING FOR NEPA COMPLIANCE.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.*

*(4) CONTRACTING AUTHORITY.—The Commission shall, for the*

*tracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.*

*(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—*

*(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five year period following such expiration; and*

*(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.*

*(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than 90 days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.*

*(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.*

*(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.*

*(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views*

*and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—*

*(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;*

*(B) be based on, and supported by, the best available scientific knowledge;*

*(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;*

*(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;*

*(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and*

*(F) be consistent with the legal rights of appropriate Indian tribes.*

*Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.*

*(5) AGENCY CONSULTATION.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be developed and implemented in consultation with the Secretary of Agriculture.*

*(6) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.*

*(B) At least 60 days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.*

*(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law—*

*(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: Provided, however, That the commission shall*

*purposes of any of the funds authorized in the schedule in section 315.*

*(2) The Commission may, for the purpose of carrying out this Act,*

*(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and*

*(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.*

*(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.*

*(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.*

*(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.*

*(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.*

*(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.*

*(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.*

*(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (l) or condemnation proceedings initiated by other agencies.*

*(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.*

*(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).*

*(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION*

*of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).*

*(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—*

*(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and*

*(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of federal land ownerships, to the appropriate federal agency.*

*(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.*

*(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.*

*(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.*

***SEC. 302. INCREASED PROJECT WATER CAPABILITY.***

*(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.*

*(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within 30 days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the pur-*

*SEC. 303. STREAM FLOWS.*

*(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.*

*(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) the District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—*

*(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;*

*(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and*

*(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.*

*The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.*

*(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.*

*(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company Water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.*

*(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within 30 days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).*

*(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District*

*exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.*

*(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:*

*(A) $500,000 for leasing of water pursuant to paragraph (2).*

*(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.*

*(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).*

*(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).*

*(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources:*

*(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—*

*(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and*

*(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.*

*(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.*

*(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.*

*(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake a minimum of 75 cubic feet*

*(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.*

*(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—*

*(1) a fishery and recreational use study that addresses anticipated peak flows;*

*(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;*

*(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;*

*(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;*

*(5) study of the mitigation and conservation opportunities associated with section 202(2);*

*(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and*

*(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.*

*(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).*

*(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.*

*(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.*

**SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.**

*The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified*

*SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.*

*(A) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of federal land ownerships, to the appropriate federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System. Of the amounts authorized to be appropriated by Section 201, $1,300,000 shall be available only for the purposes of this subsection.*

*(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by Section 201, $750,000 shall be available only for the purposes of this subsection.*

*SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.*

*(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.*

*(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.*

*(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.*

*(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.*

*(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.*

*(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation ease-*

*min Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.*

*(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).*

*(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.*

*(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.*

*(5) Nothing in this subsection shall affect existing water rights under Utah State law.*

*(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.*

*(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).*

*(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.*

*(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.*

*(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.*

*(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.*

*(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be*

*high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.*

***SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.***

*Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:*

*(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.*

*(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.*

*(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.*

*(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.*

*(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm watery fishery and other related issues; and*

*(B) development of facilities and programs to implement management objectives.*

*(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.*

*(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.*

*(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.*

***SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.***

*(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.*

*(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating*

*are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.*

*(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.*

*(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.*

***SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.***

*(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:*

*(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.*

*(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.*

*(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.*

*(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.*

*(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.*

***SEC. 310. SECTION 8 EXPENSES.***

*(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.*

*(b) The sections referred to in subsection (a) of this section are as follows: Title III, and 402(b)(2).*

*SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.*

*(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.*

*(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.*

*(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.*

*(d) RECREATIONAL FACILITIES.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102–267).*

*(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102–267).*

*(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.*

*SEC. 312. RECREATION.*

*Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:*

*(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.*

*(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.*

*SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.*

*Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:*

*(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wild-*

*expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.*

*(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.*

*(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the U.S. Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.*

***SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.***

*Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:*

*(a) deposit the Federal contribution to the Account authorized in section 402(b)(2); then,*

*(b) of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.*

*(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.*

*(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to:*

*(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;*

*(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;*

*(3) provide jobs and sustainable economic development in a manner that carries out the order purposes of this subsection;*

*(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.*

*(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will:*

*(1) reconstitute natural biological diversity that has been diminished;*

*(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;*

*(3) allow reintroduction and reoccupation by native flora and fauna;*

*(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;*

*(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;*

*(6) provide additional conservation values to state and local government lands;*

*(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and*

*(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.*

***SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.***

*The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:*

## *FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE*

### *I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION*

| *Projects and Features* | *Appropriations (Thousands of 1990 Dollars)* | | | |
|---|---|---|---|---|
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *Instream flows:* | | | | |
| *1.a. Lease of Daniels Creek water rights* | *$500* | *$500* | *$0* | *$0* |
| *b. Acquisition of Dainels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]* | *$10,0000* | *$10,000* | *$0* | *$0* |
| *2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]* | *$15,000* | *$5,000* | *$5,000* | *$5,000* |
| *b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]* | *$4,000* | *$500* | *$1,500* | *$1,500* |
| *3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]* | *$500* | *$100* | *$100* | *$100* |

## *FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued*

### *I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION*

| *Projects and Features* | *Appropriations (Thousands of 1990 Dollars)* | | | |
|---|---|---|---|---|
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| | *FY96* | *FY97* | *FY98* | |
| *Instream flows:* | | | | |
| *1.a. Lease of Daniels Creek water rights* | *$0* | *$0* | *$0* | |
| *b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]* | *$0* | *$0* | *$0* | |
| *2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]* | *$0* | *$0* | *$0* | |
| *b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]* | *$500* | *$0* | *$0* | |
| *3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]* | *$100* | *$100* | *$0* | |
| *Subtotal* | *$600* | *$100* | *$0* | |
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *Wildlife lands and improvement:* | | | | |
| *1. Acquisition of big game winter range [Sec. 305(a)]* | *$1,300* | *$0* | *$100* | *$200* |
| *2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]* | *$750* | *$0* | *$0* | *$250* |
| *Subtotal* | *$2,050* | *$0* | *$100* | *$450* |
| | *FY96* | *FY97* | *FY98* | |
| *Wildlife lands and improvement:* | | | | |
| *1. Acquisition of big game winter range [Sec. 305(a)]* | *$500* | *$500* | *$0* | |
| *2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]* | *$250* | *$250* | *$0* | |
| *Subtotal* | *$750* | *$750* | *$0* | |
| | *FY96* | *FY97* | *FY98* | |
| *Wetland acquisition, rehabilitation, and development:* | | | | |
| *1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]* | *$14,000* | *$1,000* | *$2,600* | *$2,600* |
| *2. Wetland acquisition along the Jordan River [Sec. 311(c)]* | *$7,000* | *$300* | *$1,200* | *$1,500* |
| *3. Inventory of sensitive species and ecosystems [Sec. 306(b)]* | *$1,500* | *$250* | *$250* | *$250* |
| *4. Acquisition of lands, waters, and* | | | | |

## *FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued*

### *I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION*

| *Projects and Features* | *Appropriations (Thousands of 1990 Dollars)* | | | |
|---|---|---|---|---|
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *Subtotal* | *$39,190* | *$3,240* | *$7,050* | *$7,350* |
| | *FY96* | *FY97* | *FY98* | |
| *Wetland acquisition, rehabilitation, and development:* | | | | |
| *1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]* | *$2,600* | *$2,600* | *$2,600* | |
| *2. Wetland acquisition along the Jordan River [Sec. 311(c)]* | *$2,000* | *$2,600* | *$0* | |
| *3. Inventory of sensitive species and ecosystems [Sec. 306(b)]* | *$250* | *$250* | *$250* | |
| *4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]* | *$3,000* | *$3,000* | *$3,000* | |
| *Subtotal* | *$7,850* | *$7,850* | *$5,850* | |
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *Fisheries acquisition and restoration:* | | | | |
| *1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]* | *$750* | *$50* | *$0* | *$100* |
| *2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]* | *$4,000* | *$0* | *$400* | *$600* |
| *3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]* | *$1,000* | *$200* | *$200* | *$200* |
| *4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]* | *$1,500* | *$300* | *$300* | *$300* |
| *5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]* | *$1,000* | *$150* | *$150* | *$200* |
| *6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]* | *$1,000* | *$0* | *$0* | *$0* |
| *7. Restoration of native cutthroat trout populations [Sec. 307(7)]* | *$475* | *$50* | *$50* | *$75* |
| *8. Fish habitat improvements to the Jordan River [Sec. 311(a)]* | *$1,150* | *$0* | *$0* | *$100* |
| *9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec 308]* | *$5,000* | *$0* | *$0* | *$0* |
| *10. Department of additional fish hatchery production for CRSP waters in Utah [Sec. 313]* | *$22,800* | *$100* | *$3,500* | *$4,200* |
| *Subtotal* | *$38,675* | *$850* | *$4,600* | *$5,775* |
| | *FY96* | *FY97* | *FY98* | |
| *Fisheries acquisition and restoration:* | | | | |
| *1. Fish habitat restoration on Provo* | | | | |

## *FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued*

### *I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION*

| *Projects and Features* | *Appropriations (Thousands of 1990 Dollars)* | | | |
|---|---|---|---|---|
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]* | *$1,000* | *$1,000* | *$1,000* | |
| *3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]* | *$200* | *$200* | *$0* | |
| *4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]* | *$300* | *$300* | *$0* | |
| *5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]* | *$150* | *$150* | *$200* | |
| *6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]* | *$100* | *$500* | *$400* | |
| *7. Restoration of native cutthroat trout populations [Sec. 307(7)]* | *$100* | *$100* | *$100* | |
| *8. Fish habitat improvements to the Jordan River [Sec. 311(a)]* | *$300* | *$400* | *$350* | |
| *9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]* | *$500* | *$2,000* | *$2,500* | |
| *10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]* | *$5,000* | *$5,000* | *$5,000* | |
| *Subtotal* | *$7,850* | *$9,850* | *$9,750* | |
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *Watershed Improvements:* | | | | |
| *1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]* | *$2,500* | *$0* | *$500* | *$500* |
| *2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]* | *$1,125* | *$125* | *$200* | *$200* |
| *3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]* | *$4,000* | *$500* | *$700* | *$700* |
| *Subtotal* | *$7,625* | *$625* | *$1,400* | *$1,400* |
| | *FY96* | *FY97* | *FY98* | |
| *Watershed Improvements:* | | | | |
| *1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]* | *$500* | *$500* | *$500* | |
| *2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]* | *$200* | *$200* | *$200* | |
| *3. Small dam and watershed improve-* | | | | |

## FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

### I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

| Projects and Features | Appropriations (Thousands of 1990 Dollars) | | | |
|---|---|---|---|---|
| | TOTAL | FY93 | FY94 | FY95 |
| Subtotal | $1,400 | 1,400 | 1,400 | |
| | TOTAL | FY93 | FY94 | FY95 |
| Stream Access and Riparian Habitat Development: | | | | |
| 1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)] | $750 | $0 | $250 | $250 |
| 2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)] | $250 | $0 | $0 | $50 |
| 3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)] | $350 | $0 | $0 | $50 |
| 4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)] | $8,500 | $500 | $1,000 | $1,500 |
| 5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)] | $400 | $50 | $75 | $75 |
| 6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)] | $750 | $75 | $75 | $150 |
| Subtotal | $11,000 | $625 | $1,400 | $2,075 |
| | FY96 | FY97 | FY98 | |
| Stream Access and Riparian Habitat Development: | | | | |
| 1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)] | $250 | $0 | $0 | |
| 2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)] | $100 | $100 | $0 | |
| 3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)] | $100 | $100 | $100 | |
| 4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)] | $1,500 | $2,000 | $2,000 | |
| 5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)] | $75 | $75 | $50 | |
| 6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)] | $150 | $150 | $150 | |
| Subtotal | $2,175 | $2,425 | $2,300 | |
| | TOTAL | FY93 | FY94 | FY95 |

Recreation funds:

## FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

### I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

| Projects and Features | Appropriations (Thousands of 1990 Dollars) | | | |
|---|---|---|---|---|
| | TOTAL | FY93 | FY94 | FY95 |
| 2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)] | $750 | $50 | $100 | $150 |
| 3. Provo/Jordan River Parkway Development [Sec. 311(d)] | $1,000 | $0 | $75 | $75 |
| 4. Provo River corridor development [Sec. 311(e)] | $1,000 | $0 | $75 | $75 |
| Subtotal | $4,750 | $175 | $525 | $700 |
| Total Additional | $133,290 | $21,615 | $21,675 | $24,350 |
| | FY96 | FY97 | FY98 | |
| Recreation funds: | | | | |
| 1. Recreational improvements at Utah Lake [Sec. 312(a)] | $400 | $400 | $400 | $ |
| 2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)] | $150 | $150 | $150 | |
| 3. Provo/Jordan River Parkway Development [Sec. 311(d)] | $200 | $300 | $350 | |
| 4. Provo River corridor development [Sec. 311(e)] | $200 | $300 | $350 | |
| Subtotal | $950 | $1,150 | $1,250 | |
| Total Additional | $21,575 | $23,525 | $20,550 | |
| Strawberry collection system: | | | | |
| 1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan | $2,700 | $900 | $900 | $900 |
| 2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan | $3,990 | $666 | $803 | $790 |
| 3. Rehabilitation of Strawberry Project wildlife and riparian habitats | $3,000 | $600 | $600 | $600 |
| Subtotal | $9,690 | $3,966 | $1,403 | $1,390 |
| | FY96 | FY97 | FY98 | |
| Strawberry collection system: | | | | |
| 1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan | $0 | $0 | $0 | |
| 2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan | $453 | $604 | $674 | |
| 3. Rehabilitation of Strawberry Project wildlife and riparian habitats | $600 | $600 | $0 | |
| Subtotal | $1,053 | $1,204 | $674 | |
| | TOTAL | FY93 | FY94 | FY95 |
| Duchesne canal rehabilitation: | | | | |
| 1. Acquire and develop 782 acres along Duchesne River | $160 | $160 | $0 | $0 |

## *FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued*

### *I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION*

| *Projects and Features* | *Appropriations (Thousands of 1990 Dollars)* | | | |
|---|---|---|---|---|
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| | *FY96* | *FY97* | *FY98* | |
| *Duchesne canal rehabilitation:* | | | | |
| *1. Acquire and develop 782 acres along Duchesne River* | *$0* | *$0* | *$0* | |
| *Subtotal* | *$0* | *$0* | *$0* | |
| | *TOTAL* | *FY93* | *FY94* | *FY95* |
| *Municipal and industry system:* | | | | |
| *1. Fence and develop big game on north shoreline of Jordanelle Reservoir* | *$226* | *$100* | *$126* | *$0* |
| *2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir* | *$1,050* | *$525* | *$525* | *$0* |
| *3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam* | *$900* | *$900* | *$0* | *$0* |
| *Subtotal* | *$2,176* | *$1,525* | *$651* | *$0* |
| *Total DPR* | *$12,026* | *5,651* | *2,054* | *$1,390* |
| *Grand Total* | *$145,316* | *$27,266* | *23,729* | *$25,740* |
| | *FY96* | *FY97* | *FY98* | |
| *Municipal and industry system:* | | | | |
| *1. Fence and develop big game on north shoreline of Jordanelle Reservoir* | *$0* | *$0* | *$0* | |
| *2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir* | *$0* | *$0* | *$0* | |
| *3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam* | *$0* | *$0* | *$0* | |
| *Subtotal* | *$0* | *$0* | *$0* | |
| *Total DPR* | *$1,053* | *$1,204* | *$674* | |
| *Grand Total* | *$22,628* | *$24,729* | *$21,224* | |

# *TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT*

**SEC. 401. FINDINGS AND PURPOSE.**

*(a) FINDINGS.—The Congress finds that—*

*(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;*

*(2) the State of Utah is one of the most ecologically significant states in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;*

*plex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and*

*(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.*

*(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—*

*(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;*

*(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;*

*(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and*

*(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.*

***SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.***

*(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this Title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).*

*(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:*

*(1) STATE CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.*

*(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.*

*(3) CONTRIBUTIONS FROM PROJECT BENEFITS.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-federal funds from the District.*

*(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonre-*

*(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.*

*(4) INTEREST AND UNEXPECTED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.*

*(B) All funds annually appropriated to the Secretary for the Commission.*

*(C) All interest earned on amounts in the Account.*

*(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).*

*(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.*

*(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.*

*(3) All amounts deposited in the Account pursuant to subsections (b)(1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.*

*(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:*

*(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and*

*(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.*

*[illegible] Utah Division of Wildlife Re-*

*fills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the U.S. Forest Service, the Bureau of Land Management of the Department of the Interior, and the U.S. Fish and Wildlife Service.*

*(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.*

*(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of Interior.*

## *TITLE V—UTE INDIAN RIGHTS SETTLEMENT*

***SEC. 501. FINDINGS.***

*(a) FINDINGS.—The Congress finds the following—*

*(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.*

*(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.*

*(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.*

*(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.*

*(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—*

*(1) quantify the Tribe's reserved water rights;*

*(2) allow increased beneficial use of such water; and*

*(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.*

***SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.***

*(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year after the date of enactment of this Act, and continuing for 50 years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.*

*(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.*

*(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.*

*(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.*

*(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.*

***SEC. 503. TRIBAL USE OF WATER.***

*(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving*

*agement of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.*

*(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.*

*(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact; Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.*

*(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.*

*(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—*

*(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;*

*(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or*

*(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such*

***SEC. 504. TRIBAL FARMING OPERATIONS.***

*Of the amounts authorized to the appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year-period—*

*(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;*

*(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and*

*(3) a fund to permit tribal members to upgrade their individual farming operations.*

*Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.*

***SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.***

*(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.*

*(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.*

*(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.*

*(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the Dis-*

*water as its contribution to the preservation of minimum stream flow in the Uinta Basin.*

*(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.*

*(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.*

*(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.*

***SEC. 506. TRIBAL DEVELOPMENT FUNDS.***

*(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.*

*(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.*

*(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Pan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.*

*(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.)*

*SEC. 507. WAIVER OF CLAIMS.*

*(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.*

*(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.*

*(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.*

## *TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT*

*Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

## *TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO*

*SEC. 701. AUTHORIZATION.*

*The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.*

*SEC. 702. COSTS NONREIMBURSABLE.*

*Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.*

*SEC. 703. OPERATION AND MAINTENANCE.*

*The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal au-*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck all of the Senate amendment and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House and an amendment that is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

### SECTION 1. SHORT TITLE

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

### SECTION 2. DEFINITION AND TABLE OF CONTENTS

This section defines the term "Secretary" and contains a table of contents.

### TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

Title I of the House bill authorizes a 4.5 megawatt increase in hydroelectric generating capacity associated with Buffalo Bill Dam. It authorizes construction of recreational facilities and requires equal State-Federal cost-sharing for those facilities. Title I also authorizes an $80 million Federal cost ceiling for the project, deleting from existing law the requirement that the total authorized cost (State and Federal contributions) be reduced by sums contributed by the State. In addition, section 3414 of the House bill authorized additional, nonreimbursable appropriations for increased construction costs due to delays in enactment of additional appropriations authority.

Title I of the Senate amendment is identical to the House bill, but does not contain a comparable provision for section 3414.

Title I of the Conference substitute adopts the Senate provision with the addition of the House language on the nonreimbursability of supplemental appropriations.

### TITLES II–VI—CENTRAL UTAH PROJECT COMPLETION

Titles II through VI of the House bill provide for the orderly completion of the Central Utah Project (CUP) by authorizing an increase in the appropriations ceiling for the project, authorizing certain water conservation and wildlife mitigation projects, and by providing for the construction of certain project features for delivery of municipal and irrigation water to specified areas within the CUP service area.

Titles II through VI of the Senate amendment are identical to titles II through VI of the House bill except for the deletion of the study of the status of Colorado River Storage Project participating projects at which construction had not begun by 1991, and certain technical, non-substantive changes.

Titles II through VI of the Conference substitute adopt the Senate language with two modifications. First, section 202 is amended to authorize the Secretary to use any unexpended budget authority to provide the Federal share of construction of the Hatchtown dam. Second, section 212 is amended to incorporate the House language on crops of certain agricultural commodities, specifying that this section applies only to the Central Utah Project.

### TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

Title VII of both the House bill and the Senate amendment authorizes funds for the construction and operation of a facility to treat mine drainage from the Leadville Tunnel in Colorado, a facility owned by the Bureau of Reclamation. Additional activities, including restoration of fish and wildlife resources and water quality conditions, and monitoring of the effectiveness of the treatment facility, are also authorized.

The Senate amendment additionally provides for 60 percent non-Federal cost-sharing of certain project elements and indexing of project construction costs.

Title VII of the Conference substitute adopts the Senate language without modifications.

### TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

Title VIII of the House bill authorizes construction of this project to improve water quality entering Lake Meredith, Texas. Federal contributions are limited to 33 percent of the total project costs under the House bill.

The Senate amendment estimates the Federal share of project costs to be 33 percent, and provides for indexing of construction costs.

Title VIII of the Conference substitute adopts the House provision without modifications.

## TITLE IX—CEDAR BLUFF UNIT, KANSAS

Title IX of the House bill and the Senate amendment both authorize the reformulation of the Cedar Bluff Unit. Both bills provide for the termination of the existing repayment contract upon receipt by the United States of a payment from the State of Kansas. Both bills also provide for the orderly transfer of certain facilities and various interests to the State of Kansas or others, provided that certain conditions are met.

The House bill and the Senate Amendment differ by $15,424 in the amount of payment required to allow the United States to terminate the local district's repayment obligation. Once the project reformulation goals have been accomplished, the Senate amendment provides that any revenues from the sale of project water received by the State of Kansas in excess of operating and maintenance expenses may be retained by the State of Kansas, once financial obligations to the United States have been satisfied. The House bill provides that all net revenues from the sale of project water be credited to the Reclamation Fund.

Title IX of the Conference substitute adopts the Senate language without modifications.

## TITLE X—SOUTH DAKOTA WATER PLANNING STUDIES

Title XVII of the Senate amendment authorized the Secretary of the Interior to perform an assessment of the Rosebud Sioux Reservation's current and future water needs and to determine the desirability, feasibility, and cost of extending the Mni Wiconi water pipeline to the Rosebud Sioux Reservation in South Dakota. In performing the assessment work, the Bureau of Reclamation must use existing funds, not funds appropriated under the Mni Wiconi Project Act of 1988 (Public Law 100–516) for other purposes.

The House bill has no comparable provision.

The Conference substitute adopts the Senate language with two amendments. First, the last sentence of the Senate amendment is deleted as unnecessary. Second, the Secretary of the Interior is authorized to spend $1.446 million from funds appropriated under Public Law 100–516 to construct an interim water system for the White Clay and Wakpamni Districts of the Pine Ridge Indian Reservation as soon as the final engineering report and the National Environmental Policy Act requirements for that segment of the Oglala Rural Water Supply System (ORWSS) has been completed.

Title X of the House bill addressed two issues associated with the Central Valley Project, California: (1) authorizing the expansion of the service area of the Tehama-Colusa Canal, and (2) authorizing a water service contract for the Tuolumne Regional Water District. These provisions have been combined in Title XXXIV of the Conference substitute.

## TITLE XI—SALTON SEA RESEARCH PROJECT, CALIFORNIA

Both the House bill and the Senate amendment authorize a saline water research project in the area of the Salton Sea in Cali-