

103^D CONGRESS
1ST SESSION

H. R. 1690

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1993

Mr. INSLEE introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PURPOSES.**

4 The purposes of this Act are—

5 (1) to protect, mitigate, and enhance fish and
6 wildlife through improved water management, im-
7 proved instream flows, improved water quality, pro-
8 tection, creation and enhancement of wetlands, and
9 by other appropriate means of habitat improvement;

1 (2) to improve the reliability of water supply for
2 irrigation;

3 (3) to authorize a Yakima basin water con-
4 servation program that will improve the efficiency of
5 water delivery and use; enhance basin water sup-
6 plies; improve water quality; protect, create and en-
7 hance wetlands; and determine the amount of basin
8 water needs that can be met by water conservation
9 measures;

10 (4) to encourage voluntary transactions among
11 public and private entities which result in the imple-
12 mentation of water conservation measures, practices,
13 and facilities; and

14 (5) to provide for the implementation by the
15 Yakima Indian Nation at its sole discretion of (A)
16 an irrigation demonstration project on the Yakima
17 Indian Reservation using water savings from system
18 improvements to the Wapato Irrigation Project, and
19 (B) a Toppenish Creek corridor enhancement project
20 integrating agricultural, fish, wildlife, and cultural
21 resources.

22 **SEC. 2. DEFINITIONS.**

23 As used in this Act:

1 (1) The term “Basin Conservation Program”
2 means the Yakima River Basin Water Conservation
3 Program established under section 3(a).

4 (2) The term “Conservation Advisory Group”
5 means the Yakima River Basin Conservation Advi-
6 sory Group established under section 3(c).

7 (3) The term “Irrigation Demonstration
8 Project” means the Yakima Indian Reservation Irri-
9 gation Demonstration Project authorized in section
10 4(b).

11 (4) The term “on-district storage” means small
12 water storage facilities located within the boundaries
13 of an irrigation entity, including reregulating res-
14 ervoirs, holding ponds, or other new storage methods
15 which allow for efficient water use.

16 (5) The term “Secretary” means the Secretary
17 of the Interior.

18 (6) The term “Toppenish Enhancement
19 Project” means the Toppenish Creek corridor en-
20 hancement project authorized by section 4(c).

21 (7) The term “Yakima Project Superintendent”
22 means the individual designated by the Regional Di-
23 rector, Pacific Northwest Region, Bureau of Rec-
24 lamation, to be responsible for the operation and

1 management of the Yakima Federal Reclamation
2 Project, Washington.

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

5 (a) ESTABLISHMENT.—The Secretary, in consulta-
6 tion with the State of Washington, the Yakima Indian Na-
7 tion, Yakima River Basin irrigators, and other interested
8 parties, shall establish and administer a Yakima River
9 Basin Water Conservation Program for the purpose of
10 evaluating and implementing measures to improve the
11 availability of water supplies for irrigation and the protec-
12 tion and enhancement of fish and wildlife resources, in-
13 cluding wetlands, while improving the quality of water in
14 the Yakima Basin. The provisions of this section shall not
15 be applicable to the Yakima Indian Nation except as to
16 any funds specifically applied for from the Basin Con-
17 servation Program. The Secretary may make grants to eli-
18 gible entities for the purposes of carrying out this Act
19 under such terms and conditions as the Secretary may
20 require.

21 (b) FOUR PHASES OF PROGRAM.—The Basin Con-
22 servation Program shall encourage and provide funding
23 assistance for four phases of water conservation, which
24 shall consist of the following:

1 (1) The development of water conservation
2 plans, consistent with guidelines developed pursuant
3 to subsection (d), by irrigation districts, conservation
4 districts, water purveyors, other areawide entities,
5 and individuals not included within an areawide
6 entity.

7 (2) The investigation of the feasibility of spe-
8 cific potential water conservation measures identified
9 in conservation plans.

10 (3) The implementation of measures that have
11 been identified in conservation plans and have been
12 investigated for feasibility.

13 (4) Post implementation monitoring and evalua-
14 tion of implemented measures.

15 (c) CONSERVATION ADVISORY GROUP.—(1) Not later
16 than 12 months after the date of enactment of this Act,
17 the Secretary, in consultation with the State of Washing-
18 ton, the Yakima Indian Nation, Yakima River basin
19 irrigators, and other interested and related parties, shall
20 establish the Yakima River Basin Conservation Advisory
21 Group.

22 (2) Members of the Conservation Advisory Group
23 shall be appointed by the Secretary and shall be comprised
24 of—

1 (A) two representatives of the Yakima River
2 basin irrigators,

3 (B) one representative of the Yakima Indian
4 Nation,

5 (C) one representative of counties and cities in
6 the Yakima River basin, and

7 (D) one representative of environmental inter-
8 ests.

9 (3) The Conservation Advisory Group shall—

10 (A) provide recommendations to the Secretary
11 regarding the structure and implementation of the
12 Basin Conservation Program,

13 (B) assist in the preparation of guidelines for
14 the Basin Conservation Program, as provided for in
15 subsection (d),

16 (C) structure a process to integrate specific
17 water conservation measures into a basin conserva-
18 tion plan,

19 (D) provide annual review of the implementa-
20 tion of the guidelines, and

21 (E) provide recommendations consistent with
22 State statutes on rules, regulations, and administra-
23 tion of a process to facilitate the voluntary sale or
24 lease of water.

1 The Conservation Advisory Group shall be nonvoting,
2 seeking consensus whenever possible. If disagreement oc-
3 curs, any member may submit independent comments to
4 the Secretary. The Conservation Advisory Group shall ter-
5 minate 5 years after the date of its establishment unless
6 extended by the Secretary.

7 (d) GUIDELINES.—The Secretary, in cooperation
8 with the State of Washington, the Yakima Indian Nation,
9 Yakima River basin irrigators, and interested agencies,
10 shall, within 12 months after the Conservation Advisory
11 Group is appointed, adopt guidelines to be used in the ad-
12 ministration of the Basin Conservation Program. The Sec-
13 retary shall establish the guidelines in consultation with
14 the Conservation Advisory Group. The Secretary shall
15 submit a detailed report to the Committee on Energy and
16 Natural Resources of the Senate, the Committee on Inte-
17 rior and Insular Affairs of the House of Representatives,
18 and the Governor of the State of Washington on the guide-
19 lines. At least 60 days prior to the submission of the re-
20 port on guidelines, the Secretary shall make a draft of
21 such report available to the State of Washington, the Yak-
22 ima Indian Nation, Yakima River basin irrigators, related
23 agencies, and the public, and establish procedures for
24 timely comments thereon. The Secretary shall include a
25 summary of such comments as an appendix to such report.

1 The guidelines shall to the extent possible be consistent
2 with State funding processes, regulations, and guidelines
3 and shall contain, at a minimum, the following:

4 (1) Standards for the scope and content of
5 water conservation plans and for feasibility studies
6 of specific measures.

7 (2) Eligibility requirements for funding of pro-
8 posals for conservation plan development, investiga-
9 tion of measures, and implementation.

10 (3) Criteria for evaluating and prioritizing pro-
11 posals for development of conservation plans and
12 investigation of potential measures and implementa-
13 tion, including—

14 (A) the availability of information on water
15 diversions and use in the area for which the
16 measures are proposed;

17 (B) information to be gained and applica-
18 bility to other areas and programs in the Yak-
19 ima basin;

20 (C) cost-effectiveness and availability of
21 non-Federal funding;

22 (D) the amount of reduced diversions and
23 timing in relation to present diversions;

24 (E) the extent to which each measure will
25 contribute to the improved use of the available

1 water and the reliability of the water supply of
2 the Yakima River basin;

3 (F) post implementation monitoring and
4 evaluation;

5 (G) a plan to mitigate adverse environ-
6 mental effects;

7 (H) the extent to which proposed measures
8 incorporate the testing of innovative water man-
9 agement techniques and technology;

10 (I) the extent to which proposed measures
11 contribute to the maintenance of the economic
12 viability of agriculture;

13 (J) consistency with applicable laws and
14 Federal, State, tribal, and Yakima River basin
15 water resource policies, goals, and objectives;

16 (K) the existence of or willingness of irri-
17 gation entities and other Basin Conservation
18 Program participants to adopt procedures pro-
19 viding for incremental water pricing; and

20 (L) willingness to permanently restrict an-
21 nual water diversions to a mutually agreed
22 quantity in recognition of securing funding
23 from and accomplishments of the Basin Con-
24 servation Program.

1 (4) Institutional and economic incentives to in-
 2 crease conservation and to promote more efficient
 3 use of water, which shall include the specification of
 4 procedures for the voluntary transfer of water within
 5 the Yakima River basin.

6 (5) Procedures for administration and alloca-
 7 tion of funds from the Basin Conservation Program.

8 (6) Oversight of the Basin Conservation Pro-
 9 gram and consultation requirements.

10 (e) COST SHARING.—(1) Costs incurred in the four
 11 phases of the Basin Conservation Program shall be shared
 12 as follows:

Program Phase	Non-Federal		Federal Grant
	State Grant	Local	
1. Development of water conservation plans	50% but not more than \$200,000 per recipient	(Residual amount if any)	50%
2. Investigation of specific water conservation measures	50% but sum of 1 and 2 not greater than \$200,000 per recipient	20% after deducting state funds for Item 2	Residual amount after deducting state and local funds for Item 2
3 and 4. Implementation and post implementation monitoring and evaluation	35%	30%	35%

13 (2) Water and water related resource improvements
 14 implemented in the Yakima River basin subsequent to and
 15 independent of this Act which utilize funding from the

1 Bonneville Power Administration under the Pacific North-
2 west Electric Power Planning and Conservation Act of
3 1980 (94 Stat. 2697) to enhance fishery resources, and
4 independent water related improvements of the State of
5 Washington and other public and private entities to im-
6 prove irrigation water use, water supply, and water qual-
7 ity, shall be treated as non-Federal cost share expendi-
8 tures under this Act for purposes of the implementation
9 and post-implementation monitoring and evaluation
10 phases of the Basin Conservation Program. Such expendi-
11 tures shall be limited to 50 percent of the non-Federal
12 portion of the total costs incurred in the implementation
13 and post-implementation monitoring and evaluation
14 phases of the Basin Conservation Program, and such ex-
15 penditures shall reduce the total amount of the non-Fed-
16 eral cost share required for such phases.

17 (3) Costs of the Basin Conservation Program related
18 to projects on the Yakima Indian Reservation are a Fed-
19 eral responsibility and shall be nonreimbursable and not
20 subject to the cost-sharing provisions of this subsection.

21 (f) PUBLIC REVIEW.—Water conservation plans rec-
22 ommended for funding through the Basin Conservation
23 Program shall be made available to the public for a period
24 of at least 30 days for review and comment prior to sub-
25 mission to the Secretary. A summary of such comments

1 shall be included with the recommendation of the Con-
2 servation Advisory Group upon transmittal to the Sec-
3 retary.

4 (g) CONSERVATION MEASURES.—(1) Measures con-
5 sidered for implementation in the Basin Conservation Pro-
6 gram may include, among others, conveyance and distribu-
7 tion system monitoring, automation of water conveyance
8 systems, lining and piping of water conveyance and dis-
9 tribution systems, on-district storage, electrification of hy-
10 draulic turbines, tail-water recycling, consolidation of irri-
11 gation systems, irrigation scheduling, and improvement of
12 on-farm water application systems. Basin Conservation
13 Program funds may also be used throughout all four
14 phases of the Conservation Program to mitigate for ad-
15 verse impacts of program measures.

16 (2) In addition to implementing existing technologies,
17 the Secretary shall encourage the testing of innovative
18 water conservation measures. The Secretary shall, to the
19 maximum extent possible under Federal and State law,
20 cooperate with the State of Washington to facilitate water
21 and water right transfers, water banking, dry year op-
22 tions, the sale and leasing of water, and other innovative
23 allocation tools used to maximize the utility of existing
24 Yakima River basin water supplies.

1 (3) The Secretary may, consistent with applicable
2 law, use funds appropriated to carry out this section for
3 the purchase or lease of land, water, or water rights from
4 any entity or individual willing to limit or forego water
5 use on a temporary or permanent basis.

6 (4) On-farm water management improvements shall
7 be coordinated with programs administered by the Sec-
8 retary of Agriculture and State conservation districts.

9 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
10 hereby authorized to be appropriated to the Secretary, at
11 September 1990 prices, plus or minus such amounts as
12 may be justified by reason of ordinary fluctuations of ap-
13 plicable cost indexes, the following amounts for the Basin
14 Conservation Program:

15 (1) \$1,000,000 for the development of water
16 conservation plans.

17 (2) \$4,000,000 for investigation of specific po-
18 tential water conservation measures identified in
19 conservation plans for consideration for implement-
20 ing through the Basin Conservation Program.

21 (3) Up to \$67,500,000 for implementation,
22 post-implementation monitoring and evaluation of
23 measures, and addressing environmental impacts.

24 (4) Up to \$6,000,000 for the initial acquisition
25 of water from willing sellers or lessors specifically to

1 provide instream flows for interim periods to facili-
2 tate the outward migration of anadromous fish.
3 Such funds shall not be subject to the cost sharing
4 provisions of subsection (e).

5 (5) \$100,000 annually for the establishment
6 and support of the Conservation Advisory Group
7 during its duration. Such funds shall be available for
8 travel and per diem, rental of meeting rooms, typ-
9 ing, printing and mailing, and associated adminis-
10 trative needs. The Secretary and the State of Wash-
11 ington shall provide appropriate staff support to the
12 Conservation Advisory Group.

13 **SEC. 4. YAKIMA INDIAN NATION.**

14 (a) WAPATO IRRIGATION PROJECT IMPROVEMENTS
15 AND APPROPRIATIONS.—(1) The Yakima Indian Nation's
16 proposed system improvements to the Wapato Irrigation
17 Project pursuant to this Act shall be coordinated with the
18 Bureau of Indian Affairs.

19 (2) There is authorized to be appropriated to the Sec-
20 retary not more than \$10,000,000 for the preparation of
21 plans, investigation of measures, and following the Sec-
22 retary's certification that such measures are consistent
23 with the water conservation objectives of this Act, the im-
24 plementation of system improvements to the Wapato Irri-
25 gation Project. Funding for further improvements within

1 the Wapato Irrigation Project may be acquired under the
2 Basin Conservation Program or other sources identified
3 by the Yakima Indian Nation.

4 (3) Water savings resulting from irrigation system
5 improvements shall be available for the use of the Yakima
6 Indian Nation for irrigation and other purposes on the
7 reservation and for protection and enhancement of fish
8 and wildlife within the Yakima River basin. The convey-
9 ance of such water through irrigation facilities other than
10 the Wapato Irrigation Project shall be on a voluntary
11 basis.

12 (b) IRRIGATION DEMONSTRATION PROJECT APPRO-
13 PRIATIONS.—(1) There is hereby authorized to be appro-
14 priated to the Secretary at September 1990 prices, plus
15 or minus such amounts as may be justified by reason of
16 ordinary fluctuations of applicable cost indexes,
17 \$8,500,000 for the design and construction of the Yakima
18 Indian Reservation Irrigation Demonstration Project.
19 There is also authorized to be appropriated to the Sec-
20 retary such sums as may be necessary for the operation
21 and maintenance of the Irrigation Demonstration Project
22 including funds for administration, training, equipment,
23 materials, and supplies for the period specified by the
24 Secretary. Funds may not be made available under this
25 subsection until the Yakima Indian Nation obtains the

1 concurrence of the Secretary in the construction, manage-
2 ment, and administrative aspects of the Irrigation Dem-
3 onstration Project.

4 (2) The Irrigation Demonstration Project shall pro-
5 vide for the construction of distribution and on-farm irri-
6 gation facilities to use water savings resulting from the
7 Wapato Irrigation Project system improvements for—

8 (A) demonstrating cost-effective state of the art
9 irrigation water management and conservation,

10 (B) the training of tribal members in irrigation
11 methods, operation, and management, and

12 (C) upgrading existing hydroelectric facilities
13 and construction of additional hydroelectric facilities
14 on the reservation to meet irrigation pumping power
15 needs.

16 (c) TOPPENISH CREEK CORRIDOR ENHANCEMENT
17 PROJECT APPROPRIATIONS.—There is hereby authorized
18 to be appropriated to the Secretary \$1,500,000 for the
19 further investigation by the Yakima Indian Nation of
20 measures to develop a Toppenish Creek corridor enhance-
21 ment project to demonstrate integration of management
22 of agricultural, fish, wildlife, and cultural resources to
23 meet tribal objectives and such amount as the Secretary
24 subsequently determines is necessary for implementation.
25 There is also authorized to be appropriated to the Sec-

1 retary such sums as may be necessary for the operation
2 and maintenance of the Toppenish Enhancement Project.

3 (d) REPORT.—Within 5 years of the implementation
4 of the Irrigation Demonstration Project and the
5 Toppenish Enhancement Project, the Secretary, in con-
6 sultation with the Yakima Indian Nation, shall report to
7 the Committee on Energy and Natural Resources of the
8 Senate, the Committee on Interior and Insular Affairs of
9 the House of Representatives, and the Governor of the
10 State of Washington on the effectiveness of the conserva-
11 tion, training, mitigation, and other measures imple-
12 mented.

13 (e) STATUS OF IMPROVEMENTS AND FACILITIES.—
14 The Wapato Irrigation Project system improvements and
15 any specific irrigation facility of the Irrigation Demonstra-
16 tion Project and the Toppenish Enhancement Project shall
17 become features of the Wapato Irrigation Project.

18 (f) TREATMENT OF CERTAIN COSTS.—Costs related
19 to Wapato Irrigation Project improvements, the Irrigation
20 Demonstration Project, and the Toppenish Enhancement
21 Project shall be a Federal responsibility and are
22 nonreimbursable and nonreturnable.

23 **SEC. 5. OPERATION OF YAKIMA BASIN PROJECTS.**

24 (a) WATER SAVINGS FROM BASIN CONSERVATION
25 PROGRAM.—(1) The Basin Conservation Program is in-

1 tended to result in reductions in water diversions allowing
 2 for changes in the present operation of the Yakima Project
 3 to improve streamflow conditions in the Yakima River
 4 basin. Commencing with the enactment of this Act, and
 5 notwithstanding that anticipated water savings are yet to
 6 be realized, the Secretary shall, through the Yakima
 7 Project Superintendent, (A) continue to estimate the
 8 water supply which is anticipated to be available to meet
 9 water entitlements; and (B) provide instream flows in ac-
 10 cordance with the following criteria.

Water Supply Estimate for Period (million acre feet):				Target Flow from Date of Estimate thru October Downstream of (cubic feet per second):	
April thru September	May thru September	June thru September	July thru September	Sunnyside Diversion Dam	Prosser Diversion Dam
(1) 3.2	2.9	2.4	1.9	600	600
(2) 2.9	2.65	2.2	1.7	500	500
(3) 2.65	2.4	2.0	1.5	400	400
Less than line 3 water supply				300	300

11 The figures in the water supply columns shall hereafter
 12 in this section be referred to as “full supply”.

13 (2) The instream flows represent target flows at the
 14 respective points. Reasonable fluctuations from these tar-
 15 get flows are anticipated in the operation of the Yakima
 16 Project.

17 (3) The instream flows shall be increased for interim
 18 periods during any month of April through October to fa-
 19 cilitate when necessary the outward migration of anad-

1 romous fish. Increased instream flows for such interim pe-
2 riods shall be obtained through voluntary sale and leasing
3 of water or water rights.

4 (4) The Secretary, in cooperation with the State of
5 Washington, the Yakima Indian Nation, and Yakima
6 River basin irrigators, shall not less than every fifth year
7 after the completion of the first measure of the Basin Con-
8 servation Program, review the components which comprise
9 the full supply. If the actual supply reflects an increase
10 in relation to the quantity required to meet irrigation
11 water entitlements and a reduction in water diversions
12 which is attributed to the Basin Conservation Program,
13 the full supply figures shown in the criteria tabulation may
14 be adjusted downward as mutually determined and the
15 Yakima Project shall be operated by the Yakima Project
16 Superintendent in accordance with such adjusted criteria.
17 Water savings resulting from improvements to the Wapato
18 Irrigation Project shall be available for use of the Yakima
19 Indian Nation for irrigation and other purposes on the
20 reservation and for protection and enhancement of fish
21 and wildlife within the Yakima River Basin.

22 (5) Operational procedures and processes in the Yak-
23 ima River basin which have or may be implemented
24 through judicial actions shall not be impacted by this Act.

1 (b) WATER FROM LAKE CLE ELUM.—Water accru-
2 ing from the development of additional storage capacity
3 at Lake Cle Elum, made available pursuant to the modi-
4 fications authorized in section 6(a), shall be considered a
5 part of the basin’s water supply as provided in subsection
6 (a)(1). Releases may be made from other Yakima Project
7 storage facilities to most effectively utilize this additional
8 water, except that water deliveries to holders of existing
9 water rights shall not be impaired.

10 (c) STATUS OF BASIN CONSERVATION PROGRAM FA-
11 CILITIES.—Measures of the Basin Conservation Program
12 which are implemented on facilities currently under the
13 administrative jurisdiction of the Secretary, except as pro-
14 vided in section 4, shall be considered features of the Yak-
15 ima River Basin Water Enhancement Project, and their
16 operation and maintenance shall be integrated and coordi-
17 nated with other features of the existing Yakima Project.
18 The responsibility for operation and maintenance and the
19 related costs shall remain with the current operating en-
20 tity. As appropriate, the Secretary shall incorporate the
21 operation and maintenance of such facilities into existing
22 agreements. The Secretary shall assure that such facilities
23 are operated in a manner consistent with Federal and
24 State law and in accordance with water rights recognized
25 pursuant to State and Federal law.

1 (d) WATER ACQUIRED BY PURCHASE AND LEASE.—
2 Water acquired from voluntary sellers and lessors shall be
3 administered in accordance with the laws of the State of
4 Washington, including Chapter 90.38 Revised Code of
5 Washington.

6 (e) APPROPRIATION FOR CHANDLER POWER CANAL
7 OPERATIONS.—There is hereby authorized to be appro-
8 priated to the Secretary \$480,000 at September 1990
9 prices, plus or minus such amounts as may be justified
10 by reason of ordinary fluctuations of applicable cost in-
11 dexes, for facilities to automate the headgate, wasteways,
12 and trashrack of the Chandler Power Canal to maintain
13 operating controls for the delivery of water to the
14 Kennewick Division as the provisions of subsection (a) are
15 implemented.

16 **SEC. 6. LAKE CLE ELUM AUTHORIZATION OF APPROPRIA-**
17 **TIONS.**

18 (a) MODIFICATIONS AND IMPROVEMENTS.—There is
19 hereby authorized to be appropriated to the Secretary—
20 (1) at September 1990 prices, plus or minus
21 such amounts as may be justified by reason of ordi-
22 nary fluctuation of applicable indexes, \$2,934,000
23 to—

1 (A) modify the radial gates at Cle Elum
2 Dam to provide an additional 14,600 acre-feet
3 of storage capacity in Lake Cle Elum,

4 (B) provide for shoreline protection of
5 Lake Cle Elum, and

6 (C) construct juvenile fish passage facili-
7 ties at Cle Elum Dam, plus

8 (2) such additional amounts as may be nec-
9 essary which may be required for environmental
10 mitigation.

11 (b) OPERATION AND MAINTENANCE APPROPRIA-
12 TIONS.—There is hereby authorized to be appropriated to
13 the Secretary such sums as may be necessary for that por-
14 tion of the operation and maintenance of Cle Elum Dam
15 determined by the Secretary to be a Federal responsibility.

16 **SEC. 7. ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA**
17 **BASIN TRIBUTARIES.**

18 (a) GENERAL PROVISIONS.—The following shall be
19 applicable to the investigation and implementation of
20 measures to enhance water supplies for fish and wildlife
21 and irrigation purposes on tributaries of the Yakima River
22 basin:

23 (1) An enhancement program undertaken in
24 any tributary shall be contingent upon the agree-

1 ment of appropriate water right owners to partici-
2 pate.

3 (2) The enhancement program shall not impair
4 (A) the water rights of any water right owners in
5 the tributary; (B) the capability of tributary water
6 users to divert, convey, and apply water; and (C) ex-
7 isting water and land uses within the tributary area.

8 (3) The water supply for tributary enhancement
9 shall be administered in accordance with the laws of
10 the State of Washington.

11 (4) Any enhancement program shall be predi-
12 cated upon the availability of a dependable water
13 supply.

14 (b) STUDY.—(1) The Secretary, following consulta-
15 tion with the State of Washington, the tributary water
16 right owners, and the Yakima Indian Nation, and agree-
17 ment of appropriate water right owners to participate,
18 shall conduct a study concerning the measures that can
19 be implemented to enhance water supplies for fish and
20 wildlife and irrigation purposes on Taneum Creek, includ-
21 ing (but not limited to)—

22 (A) water use efficiency improvements;

23 (B) the conveyance of water from the Yakima
24 Project through the facilities of any irrigation entity

1 willing to contract with the Secretary without ad-
2 verse impact to water users;

3 (C) the construction, operation, and mainte-
4 nance of ground water withdrawal facilities;

5 (D) contracting with any entity that is willing
6 to voluntarily limit or forego present water use
7 through lease or sale of water or water rights on a
8 temporary or permanent basis;

9 (E) purchase of water rights from willing
10 sellers; and

11 (F) other measures compatible with the pur-
12 poses of this Act, including restoration of stream
13 habitats.

14 (2) In conducting the Taneum Creek study, the Sec-
15 retary shall consider—

16 (A) the hydrologic and environmental character-
17 istics;

18 (B) the engineering and economic factors relat-
19 ing to each measure; and

20 (C) the potential impacts upon the operations
21 of present water users in the tributary and measures
22 to alleviate such impacts.

23 (3) The Secretary shall make available to the public
24 for a 45-day comment period a draft report describing in
25 detail the findings, conclusions, and recommendations of

1 the study. The Secretary shall consider and include any
2 comment made in developing a final report. The Sec-
3 retary's final report shall be submitted to the Committee
4 on Energy and Natural Resources of the Senate, the Com-
5 mittee on Interior and Insular Affairs of the House of
6 Representatives, and the Governor of the State, and made
7 available to the public.

8 (c) IMPLEMENTATION OF NONSTORAGE MEAS-
9 URES.—After securing the necessary permits the Sec-
10 retary may, in cooperation with the Department of Ecol-
11 ogy of the State of Washington and in accordance with
12 the laws of the State of Washington, implement
13 nonstorage measures identified in the final report under
14 subsection (b) upon fulfillment of the following conditions:

15 (1) The Secretary shall enter into an agreement
16 with the appropriate water right owners who are
17 willing to participate, the State of Washington, and
18 the Yakima Indian Nation, for the use and manage-
19 ment of the water supply to be provided by proposed
20 tributary measures pursuant to this section.

21 (2) The Secretary and the State of Washington
22 find that the implementation of the proposed tribu-
23 tary measures will not impair the water rights of
24 any person or entity in the affected tributary.

1 (d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—
2 Similar enhancement programs may be investigated and
3 implemented by the Secretary in other tributaries contin-
4 gent upon the agreement of the appropriate tributary
5 water right owners to participate. The provisions set forth
6 in this section shall be applicable to such programs.

7 (e) AUTHORIZATION OF APPROPRIATIONS.—(1)
8 There is hereby authorized to be appropriated to the Sec-
9 retary \$500,000 for the study of the Taneum Creek
10 Project and such amount as the Secretary subsequently
11 determines is necessary for implementation of tributary
12 measures pursuant to this section.

13 (2) There is also authorized to be appropriated to the
14 Secretary such funds as the Secretary determines are nec-
15 essary for the investigation of similar enhancement pro-
16 grams in other Yakima River basin tributaries contingent
17 upon the agreement of the appropriate water right owners
18 to participate. Funds for the implementation of any simi-
19 lar enhancement program shall be appropriated to the
20 Secretary following the submittal of an investigation re-
21 port to the appropriate congressional committees.

22 **SEC. 8. ENVIRONMENTAL COMPLIANCE.**

23 (a) NEPA.—Implementation of the provisions of this
24 Act is contingent upon compliance by the Secretary with

1 the provisions of the National Environmental Policy Act
2 of 1969.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are hereby authorized to be appropriated to the Secretary
5 \$2,000,000 for environmental compliance activities includ-
6 ing the conduct, in cooperation with the State of Washing-
7 ton, of an inventory of wildlife and wetland resources in
8 the Yakima River basin and an investigation of measures
9 including “wetland banking”, which could be implemented
10 to address potential impacts which could result from the
11 activities taken under this Act.

12 **SEC. 9. SAVINGS PROVISIONS.**

13 Nothing in this Act shall be construed to—

14 (1) affect or modify any treaty or other right of
15 the Yakima Indian Nation;

16 (2) authorize the appropriation or use of water
17 by any Federal, State, or local agency, the Yakima
18 Indian Nation, or any other entity or individual;

19 (3) impair the rights or jurisdictions of the
20 United States, the States, the Yakima Indian Na-
21 tion, or other entities over waters of any river or
22 stream or over any ground water resource;

23 (4) alter, amend, repeal, interpret, modify, or
24 be in conflict with any interstate compact made by
25 the States;

1 (5) alter, establish, or impair the respective
2 rights of States, the United States, the Yakima In-
3 dian Nation, or any other entity or individual with
4 respect to any water or water-related right;

5 (6) alter, diminish, or abridge the rights and
6 obligations of any Federal, State, or local agency,
7 the Yakima Indian Nation, or other entity, public or
8 private;

9 (7) affect or modify the rights of the Yakima
10 Indian Nation or its successors in interest to, and
11 management and regulation of, those water re-
12 sources arising or used, within the external bound-
13 aries of the Yakima Indian Reservation;

14 (8) affect or modify the settlement agreement
15 between the United States and the State of Wash-
16 ington filed in Yakima County Superior Court with
17 regard to Federal reserved water rights other than
18 those rights reserved by the United States for the
19 benefit of the Yakima Indian Nation and its mem-
20 bers; or

21 (9) affect or modify the rights of any Federal,
22 State, or local agency, the Yakima Indian Nation, or
23 any other entity, public or private with respect to
24 any unresolved and unsettled claims in any water
25 right adjudications, or court decisions, including

1 State against Acquavella, or constitute evidence in
2 any such proceeding in which any water or water re-
3 lated right is adjudicated.

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