

**[DISCUSSION DRAFT]**114TH CONGRESS  
1ST SESSION**H. R.** \_\_\_\_\_

To approve and implement the Klamath Basin agreements, to improve natural resource management, support economic development, and sustain agricultural production in the Klamath River Basin in the public interest and the interest of the United States, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. WALDEN introduced the following bill; which was referred to the Committee on \_\_\_\_\_

**A BILL**

To approve and implement the Klamath Basin agreements, to improve natural resource management, support economic development, and sustain agricultural production in the Klamath River Basin in the public interest and the interest of the United States, 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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Klamath Basin Water Recovery and Economic Restora-  
6 tion Act of 2015”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Authorization, execution, and implementation of agreements.
- Sec. 4. Klamath project authorized purposes.
- Sec. 5. Tribal commitments; release of claims.
- Sec. 6. Water and power provisions.
- Sec. 7. Klamath tribes tribal resource fund.
- Sec. 8. Administration and funding.
- Sec. 9. Klamath tribes land restoration and economic development.
- Sec. 10. Election of eligible National Forest System lands.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) AGREEMENT.—The term “Agreement”  
6 means each of—

7 (A) the Restoration Agreement; and

8 (B) the Upper Basin Agreement.

9 (2) COMMISSION.—The term “Commission”  
10 means the Federal Energy Regulatory Commission.

11 (3) JOINT MANAGEMENT ENTITY.—The term  
12 “Joint Management Entity” means the entity that—

13 (A) is comprised of the Landowner Entity,  
14 the Klamath Tribes, the United States, and the  
15 State of Oregon;

16 (B) represents the interests of the parties  
17 to the Upper Basin Agreement; and

18 (C) is responsible for overseeing implemen-  
19 tation of the Upper Basin Agreement, as de-

1           scribed in section 7 of the Upper Basin Agree-  
2           ment.

3           (4) JOINT MANAGEMENT ENTITY TECHNICAL  
4           TEAM.—The term “Joint Management Entity Tech-  
5           nical Team” means the group of specialists ap-  
6           pointed by the Joint Management Entity as provided  
7           for in section 7.8 of the Upper Basin Agreement.

8           (5) KENO FACILITY.—The term “Keno Facil-  
9           ity” means the dam located in Klamath County, Or-  
10          egon, land underlying the dam, appurtenant facili-  
11          ties, and PacifiCorp-owned property described as  
12          Klamath County Map Tax Lot R-3907-03600-  
13          00200-000.

14          (6) KLAMATH BASIN.—

15           (A) IN GENERAL.—The term “Klamath  
16          Basin” means the land tributary to the Klam-  
17          ath River in Oregon and California.

18           (B) INCLUSIONS.—The term “Klamath  
19          Basin” includes the Lost River and Tule Lake  
20          Basins.

21          (7) KLAMATH PROJECT.—

22           (A) IN GENERAL.—The term “Klamath  
23          Project” means the Bureau of Reclamation  
24          project in the States of California and Oregon,

1 as authorized under the Act of June 17, 1902  
2 (32 Stat. 388, chapter 1093).

3 (B) INCLUSIONS.—The term “Klamath  
4 Project” includes any dams, canals, and other  
5 works and interests for water diversion, storage,  
6 delivery, and drainage, flood control, and simi-  
7 lar functions that are part of the project de-  
8 scribed in subparagraph (A).

9 (8) KLAMATH PROJECT WATER USERS.—The  
10 term “Klamath Project Water Users” has the mean-  
11 ing given the term in the Restoration Agreement.

12 (9) LANDOWNER ENTITY.—The term “Land-  
13 owner Entity” means the entity established pursuant  
14 to section 8 of the Upper Basin Agreement.

15 (10) OFF-PROJECT AREA.—The term “Off-  
16 Project Area” means—

17 (A) the areas within the Sprague River,  
18 Sycan River, Williamson River, and Wood Val-  
19 ley (including the Wood River, Crooked Creek,  
20 Sevenmile Creek, Fourmile Creek, and Crane  
21 Creek) subbasins referred to in Exhibit B of the  
22 Upper Basin Agreement; and

23 (B) to the extent provided for in the Upper  
24 Basin Agreement, any other areas for which  
25 claims described by section 1.3 or 2.5.1 of the

1 Upper Basin Agreement are settled as provided  
2 for in section 2.5.1 of the Upper Basin Agree-  
3 ment.

4 (11) OFF-PROJECT IRRIGATOR.—The term  
5 “Off-Project Irrigator” means any person that is—

6 (A)(i) a claimant for water rights for irri-  
7 gation uses in the Off-Project Area in Oregon’s  
8 Klamath Basin Adjudication; or

9 (ii) a holder of a State of Oregon water  
10 right permit or certificate for irrigation use in  
11 the Off-Project Area; and

12 (B) a Party to the Upper Basin Agree-  
13 ment.

14 (12) OREGON’S KLAMATH BASIN ADJUDICA-  
15 TION.—The term “Oregon’s Klamath Basin adju-  
16 dication” means the proceeding to determine surface  
17 water rights pursuant to chapter 539 of the Oregon  
18 Revised Statutes entitled “In the matter of the de-  
19 termination of the relative rights of the waters of  
20 the Klamath River, a tributary of the Pacific  
21 Ocean”, in the Circuit Court of the State of Oregon  
22 for the County of Klamath, numbered WA 1300001.

23 (13) PACIFICORP.—The term “PacifiCorp”  
24 means the owner and licensee of the facility (as of  
25 the date of enactment of this Act).

1           (14) PARTY TRIBES.—The term “Party tribes”  
2       means—

3           (A) the Yurok Tribe;

4           (B) the Karuk Tribe;

5           (C) the Klamath Tribes; and

6           (D) such other federally recognized tribes  
7       of the Klamath Basin as may become party to  
8       the Restoration Agreement after the date of en-  
9       actment of this Act.

10          (15) RESTORATION AGREEMENT.—The term  
11       “Restoration Agreement” means the agreement enti-  
12       tled “Klamath River Basin Restoration Agreement  
13       for the Sustainability of Public and Trust Resources  
14       and Affected Communities” and dated February 18,  
15       2010 (including amendments adopted prior to the  
16       date of enactment of this Act and any further  
17       amendments to that agreement approved pursuant  
18       to section 3(a)).

19          (16) RIPARIAN PROGRAM.—The term “Riparian  
20       Program” means the program described in section 4  
21       of the Upper Basin Agreement.

22          (17) SECRETARY.—The term “Secretary”  
23       means the Secretary of the Interior.

24          (18) SECRETARIES.—The term “Secretaries”  
25       means each of—

- 1 (A) the Secretary of the Interior;  
2 (B) the Secretary of Commerce; and  
3 (C) the Secretary of Agriculture.

4 (19) UPPER BASIN AGREEMENT.—The term  
5 “Upper Basin Agreement” means the agreement en-  
6 titled “Upper Klamath Basin Comprehensive Agree-  
7 ment” and dated April 18, 2014 (including any  
8 amendments to that agreement approved pursuant  
9 to section 3(a)).

10 (20) WATER USE PROGRAM.—The term “Water  
11 Use Program” means the program described in sec-  
12 tion 3 of the Upper Basin Agreement and section  
13 16.2 of the Restoration Agreement.

14 **SEC. 3. AUTHORIZATION, EXECUTION, AND IMPLEMENTA-**  
15 **TION OF AGREEMENTS.**

16 (a) RATIFICATION OF AGREEMENTS.—

17 (1) IN GENERAL.—Except as modified by this  
18 Act, and to the extent that the Agreements do not  
19 conflict with this Act, the Agreements are author-  
20 ized, ratified, and confirmed.

21 (2) AMENDMENTS CONSISTENT WITH THIS  
22 ACT.—If any amendment is executed to make any of  
23 the Agreements consistent with this Act, the amend-  
24 ment is also authorized, ratified, and confirmed to

1 the extent the amendment is consistent with this  
2 Act.

3 (3) FURTHER AMENDMENTS.—If any amend-  
4 ment to any of the Agreements is executed by the  
5 parties to the applicable Settlement after the date of  
6 enactment of this Act, unless the Secretary, the Sec-  
7 retary of Commerce, or Secretary of Agriculture de-  
8 termines, not later than 90 days after the date on  
9 which the non-Federal parties agree to the amend-  
10 ment, that the amendment is inconsistent with this  
11 Act or other provisions of law, the amendment is  
12 also authorized, ratified, and confirmed to the extent  
13 the amendment—

14 (A) is not inconsistent with this Act or  
15 other provisions of law;

16 (B) is executed in a manner consistent  
17 with the terms of the applicable Settlement; and

18 (C) does not require congressional approval  
19 pursuant to section 2116 of the Revised Stat-  
20 utes (25 U.S.C. 177) or other applicable Fed-  
21 eral law.

22 (b) EXECUTION AND IMPLEMENTATION OF AGREE-  
23 MENTS.—

24 (1) THE AGREEMENTS.—

1 (A) IN GENERAL.—As authorized, ratified,  
2 and confirmed pursuant to subsection (a)—

3 (i) the Secretary, the Secretary of  
4 Commerce, and the Secretary of Agri-  
5 culture shall promptly execute and imple-  
6 ment the Restoration Agreement; and

7 (ii) the Secretary and the Secretary of  
8 Commerce shall promptly execute and im-  
9 plement the Upper Basin Agreement.

10 (B) EFFECT OF EXECUTING AGREE-  
11 MENTS.—Notwithstanding subsection (1), execu-  
12 tion by the applicable Secretaries under sub-  
13 paragraph (A) of either Agreement shall not be  
14 considered a major Federal action under the  
15 National Environmental Policy Act of 1969 (42  
16 U.S.C. 4321 et seq.).

17 (C) PARTICIPATION IN THE UPPER BASIN  
18 AGREEMENT.—As provided for in the Upper  
19 Basin Agreement and as part of implementing  
20 the Upper Basin Agreement, the Secretary and  
21 the Secretary of Commerce may—

22 (i) participate in the Water Use Pro-  
23 gram and in the Riparian Program; and

24 (ii) serve as members of the Joint  
25 Management Entity representing the Bu-

1           reau of Indian Affairs, the United States  
2           Fish and Wildlife Service, the United  
3           States Geological Survey, and the National  
4           Marine Fisheries Service of the Depart-  
5           ment of Commerce, with the Secretary  
6           serving as the voting member, as described  
7           in section 7.1.5 of the Upper Basin Agree-  
8           ment.

9           (c) FEDERAL RESPONSIBILITIES.—To the extent  
10          consistent with the Agreements, this Act, and other provi-  
11          sions of law, the Secretary, the Secretary of Commerce,  
12          the Secretary of Agriculture, and the Commission shall  
13          perform all actions necessary to carry out each responsi-  
14          bility of the Secretary, the Secretary of Commerce, the  
15          Secretary of Agriculture, and the Commission, respec-  
16          tively, under the Agreements.

17          (d) ENVIRONMENTAL COMPLIANCE.—In imple-  
18          menting the Agreements, the Secretaries and the Commis-  
19          sion shall comply with—

20                 (1) the National Environmental Policy Act of  
21                 1969 (42 U.S.C. 4321 et seq.);

22                 (2) the Endangered Species Act of 1973 (16  
23                 U.S.C. 1531 et seq.); and

24                 (3) all other applicable law.

1 (e) PUBLICATION OF NOTICE; EFFECT OF PUBLICA-  
2 TION.—

3 (1) RESTORATION AGREEMENT.—

4 (A) PUBLICATION.—The Secretary shall  
5 publish the notice required by section 15.3.4.A  
6 or section 15.3.4.C of the Restoration Agree-  
7 ment, as applicable, in accordance with the Res-  
8 toration Agreement.

9 (B) EFFECT OF PUBLICATION.—Publica-  
10 tion of the notice described in subparagraph (A)  
11 shall have the effects on the commitments,  
12 rights, and obligations of the Party tribes, the  
13 United States (as trustee for the federally rec-  
14 ognized tribes of the Klamath Basin), and other  
15 parties to the Restoration Agreement provided  
16 for in the Restoration Agreement.

17 (2) UPPER BASIN AGREEMENT.—

18 (A) PUBLICATION.—The Secretary shall  
19 publish the notice required by section 10.1 of  
20 the Upper Basin Agreement if all requirements  
21 of section 10 of the Upper Basin Agreement  
22 have been fulfilled, including the requirement  
23 for notice by the Klamath Tribes of the willing-  
24 ness of the Tribes to proceed with the Upper  
25 Basin Agreement following enactment of au-

1           thorizing legislation as described in section  
2           10.1.10 or 10.2 of the Upper Basin Agreement,  
3           as applicable, in accordance with the Upper  
4           Basin Agreement.

5           (B) EFFECT OF PUBLICATION.—

6           (i) PERMANENCY.—On publication of  
7           the notice required under section 10.1 of  
8           the Upper Basin Agreement, the Upper  
9           Basin Agreement shall become permanent.

10          (ii) TERMINATION.—On publication of  
11          the notice required under section 10.2 of  
12          the Upper Basin Agreement, the Upper  
13          Basin Agreement shall terminate, accord-  
14          ing to the terms of that section.

15          (3) JUDICIAL REVIEW.—

16          (A) IN GENERAL.—Judicial review of a de-  
17          cision of the Secretary pursuant to this sub-  
18          section shall be in accordance with the standard  
19          and scope of review under subchapter II of  
20          chapter 5, and chapter 7, of title 5, United  
21          States Code (commonly known as the “Admin-  
22          istrative Procedure Act”).

23          (B) DEADLINE.—Any petition for review  
24          under this subparagraph shall be filed not later

1 than 1 year after the date of publication of the  
2 notice required under this paragraph.

3 (f) ELIGIBILITY FOR FUNDS PROTECTED.—Notwith-  
4 standing any other provision of law, nothing in this Act  
5 or the implementation of the Agreements, other than as  
6 explicitly provided for in this Act or the Agreements—

7 (1) restricts or alters the eligibility of any party  
8 to any of the Agreements, or of any Indian tribe, for  
9 the receipt of funds; or

10 (2) shall be considered an offset against any ob-  
11 ligations or funds in existence on the date of enact-  
12 ment of this Act, under any Federal or State law.

13 (g) TRIBAL RIGHTS PROTECTED.—Nothing in this  
14 Act or the Agreements—

15 (1) affects the rights of any Indian tribe out-  
16 side the Klamath Basin; or

17 (2) amends, alters, or limits the authority of  
18 the Indian tribes of the Klamath Basin to exercise  
19 any water rights the Indian tribes hold or may be  
20 determined to hold except as expressly provided in  
21 the Agreements.

22 (h) WATER RIGHTS.—

23 (1) IN GENERAL.—Except as specifically pro-  
24 vided in this Act and the Agreements, nothing in  
25 this Act or the Agreements creates or determines

1 water rights or affects water rights or water right  
2 claims in existence on the date of enactment of this  
3 Act.

4 (2) NO STANDARD FOR QUANTIFICATION.—  
5 Nothing in this Act or the Agreements establishes  
6 any standard for the quantification of Federal re-  
7 served water rights or any water claims of any In-  
8 dian tribe in any judicial or administrative pro-  
9 ceeding.

10 (i) WILLING SELLERS.—Any acquisition of interests  
11 in land or water pursuant to either Agreement shall be  
12 from willing sellers.

13 (j) NO PRIVATE RIGHT OF ACTION.—

14 (1) IN GENERAL.—Nothing in this Act confers  
15 on any person or entity not a party to the Agree-  
16 ments a private right of action or claim for relief to  
17 interpret or enforce this Act or the Agreements.

18 (2) OTHER LAW.—This subsection does not  
19 alter or curtail any right of action or claim for relief  
20 under any other applicable law.

21 (k) STATE COURTS.—Nothing in this Act expands  
22 the jurisdiction of State courts to review Federal agency  
23 actions or determine Federal rights.

24 (l) RELATIONSHIP TO CERTAIN OTHER FEDERAL  
25 LAW.—

1 (1) IN GENERAL.—Nothing in this Act amends,  
2 supersedes, modifies, or otherwise affects—

3 (A) Public Law 88–567 (16 U.S.C. 695k  
4 et seq.), except as provided in section 4(c);

5 (B) the National Wildlife Refuge System  
6 Administration Act of 1966 (16 U.S.C. 668dd  
7 et seq.);

8 (C) the Endangered Species Act of 1973  
9 (16 U.S.C. 1531 et seq.);

10 (D) the National Environmental Policy Act  
11 of 1969 (42 U.S.C. 4321 et seq.);

12 (E) the Federal Water Pollution Control  
13 Act (33 U.S.C. 1251 et seq.), except to the ex-  
14 tent section 8(b)(4) of this Act requires a per-  
15 mit under section 404 of that Act (33 U.S.C.  
16 1344), notwithstanding section 404(r) of that  
17 Act (33 U.S.C. 1344(r));

18 (F) the Federal Land Policy and Manage-  
19 ment Act of 1976 (43 U.S.C. 1701 et seq.);

20 (G) the Treaty between the United States  
21 and the Klamath and Moadoc Tribes and the  
22 Yahooskin Band of Snake Indians dated Octo-  
23 ber 14, 1864 (16 Stat. 707); or

24 (H) the Klamath Indian Tribe Restoration  
25 Act (25 U.S.C. 566 et seq.).

1           (2) CONSISTENCY.—The Agreements shall be  
2           considered consistent with subsections (a) through  
3           (c) of section 208 of the Department of Justice Ap-  
4           propriation Act, 1953 (43 U.S.C. 666).

5           (3) FEDERAL ADVISORY COMMITTEE ACT.—The  
6           actions of the Joint Management Entity and the  
7           Joint Management Entity Technical Team shall not  
8           be subject to the Federal Advisory Committee Act (5  
9           U.S.C. App.).

10          (m) WAIVER OF SOVEREIGN IMMUNITY BY THE  
11          UNITED STATES.—Except as provided in subsections (a)  
12          through (c) of section 208 of the Department of Justice  
13          Appropriations Act, 1953 (43 U.S.C. 666), nothing in this  
14          Act or the implementation of the Agreements waives the  
15          sovereign immunity of the United States.

16          (n) WAIVER OF SOVEREIGN IMMUNITY BY THE  
17          PARTY TRIBES.—Nothing in this Act waives or abrogates  
18          the sovereign immunity of the Party tribes.

19          **SEC. 4. KLAMATH PROJECT AUTHORIZED PURPOSES.**

20          (a) KLAMATH PROJECT PURPOSES.—

21                  (1) IN GENERAL.—Subject to paragraph (2)  
22                  and subsection (b), the purposes of the Klamath  
23                  Project include—

24                          (A) irrigation;

25                          (B) reclamation;

- 1 (C) flood control;  
2 (D) municipal;  
3 (E) industrial;  
4 (F) power;  
5 (G) fish and wildlife purposes; and  
6 (H) National Wildlife Refuge purposes.

7 (2) EFFECT OF FISH AND WILDLIFE PUR-  
8 POSES.—

9 (A) IN GENERAL.—Subject to subpara-  
10 graph (B), the fish and wildlife and National  
11 Wildlife Refuge purposes of the Klamath  
12 Project authorized under paragraph (1) shall  
13 not adversely affect the irrigation purpose of  
14 the Klamath Project.

15 (B) WATER ALLOCATIONS AND DELIV-  
16 ERY.—Notwithstanding subparagraph (A), the  
17 water allocations and delivery to the National  
18 Wildlife Refuges provided for in the Restoration  
19 Agreement shall not constitute an adverse effect  
20 on the irrigation purpose of the Klamath  
21 Project for purposes of this paragraph.

22 (b) WATER RIGHTS ADJUDICATION.—For purposes  
23 of the determination of water rights in Oregon's Klamath  
24 Basin adjudication, until the date on which the Appendix  
25 E-1 to the Restoration Agreement is filed in Oregon's

1 Klamath Basin adjudication pursuant to the Restoration  
2 Agreement, the purposes of the Klamath Project shall be  
3 the purposes in effect on the day before the date of enact-  
4 ment of this Act.

5 (c) DISPOSITION OF NET REVENUES FROM LEASING  
6 OF TULE LAKE AND LOWER KLAMATH NATIONAL WILD-  
7 LIFE REFUGE LAND.—Net revenues from the leasing of  
8 refuge land within the Tule Lake National Wildlife Refuge  
9 and Lower Klamath National Wildlife Refuge under sec-  
10 tion 4 of Public Law 88–567 (78 Stat. 851) (commonly  
11 known as the “Kuchel Act”) shall be provided as follows:

12 (1) Directly, without further appropriation:

13 (A) 10 percent of net revenues from land  
14 within the Tule Lake National Wildlife Refuge  
15 that are within the boundaries of Tulelake Irri-  
16 gation District to Tulelake Irrigation District,  
17 as provided in article 4 of Contract No. 14–06–  
18 200–5954 and section 2(a) of the Act of August  
19 1, 1956 (70 Stat. 799, chapter 828).

20 (B) Such amounts as are necessary to  
21 counties as payments in lieu of taxes as pro-  
22 vided in section 3 of Public Law 88–567 (16  
23 U.S.C. 695m).

1           (2) Subject to appropriation and, when so ap-  
2           propriated, notwithstanding any other provision of  
3           law:

4                   (A) 20 percent of net revenues to the  
5                   Klamath Basin National Wildlife Refuge Com-  
6                   plex of the United States Fish and Wildlife  
7                   Service, for wildlife management purposes on  
8                   the Tule Lake National Wildlife Refuge and the  
9                   Lower Klamath National Wildlife Refuge.

10                   (B) 10 percent of net revenues from land  
11                   within the Lower Klamath National Wildlife  
12                   Refuge that are within the boundaries of the  
13                   Klamath Drainage District to Klamath Drain-  
14                   age District, for operation and maintenance re-  
15                   sponsibility for the Federal reclamation water  
16                   delivery and drainage facilities within the  
17                   boundaries of the Klamath Drainage District  
18                   and the Lower Klamath National Wildlife Ref-  
19                   uge exclusive of the Klamath Straits Drain,  
20                   subject to a transfer agreement with the Bu-  
21                   reau of Reclamation under which the Klamath  
22                   Drainage District assumes the operation and  
23                   maintenance duties of the Bureau of Reclama-  
24                   tion for Klamath Drainage District (Area K)  
25                   lease land exclusive of Klamath Straits Drain.

1 (C) The remainder of net revenues after  
2 application of paragraph (1) and subparagraphs  
3 (A) and (B) of this paragraph to the Bureau of  
4 Reclamation for—

5 (i) operation and maintenance costs of  
6 Link River and Keno Dams incurred by  
7 the United States; and

8 (ii) to the extent that the revenues re-  
9 ceived under this paragraph for any year  
10 exceed the costs described in clause (i)—

11 (I) future capital costs of the  
12 Klamath Project; or

13 (II) the Renewable Power Pro-  
14 gram described in section 17.7 of the  
15 Restoration Agreement, pursuant to  
16 an expenditure plan submitted to and  
17 approved by the Secretary.

18 **SEC. 5. TRIBAL COMMITMENTS; RELEASE OF CLAIMS.**

19 (a) ACTIONS BY KLAMATH TRIBES.—

20 (1) RESTORATION AGREEMENT COMMITMENTS  
21 ACKNOWLEDGED AND AGREED TO.—In consideration  
22 for the resolution of any contest or exception of the  
23 Klamath Project Water Users to the water rights  
24 claims of the Klamath Tribes and the United States  
25 (acting as trustee for the Klamath Tribes and mem-

1       bers of the Klamath Tribes in Oregon’s Klamath  
2       Basin adjudication), and for the other commitments  
3       of the Klamath Project Water Users described in the  
4       Restoration Agreement, and for other benefits de-  
5       scribed in the Restoration Agreement and this Act,  
6       the Klamath Tribes (on behalf of the Klamath  
7       Tribes and the members of the Klamath Tribes)  
8       may make the commitments provided in the Restora-  
9       tion Agreement.

10           (2) UPPER BASIN AGREEMENT COMMITMENTS  
11       ACKNOWLEDGED AND AGREED TO.—In consideration  
12       for the resolution of any contest or exception of the  
13       Off-Project Irrigators to the water rights claims of  
14       the Klamath Tribes and the United States (acting  
15       as trustee for the Klamath Tribes and members of  
16       the Klamath Tribes in Oregon’s Klamath Basin ad-  
17       judication), and for the other commitments of the  
18       Off-Project Irrigators described in the upper Basin  
19       Agreement, and for other benefits described in the  
20       Upper Basin Agreement and this Act, the Klamath  
21       Tribes (on behalf of the Klamath Tribes and the  
22       members of the Klamath Tribes) may make the  
23       commitments provided in the Upper Basin Agree-  
24       ment.

1           (3) NO FURTHER ACTION REQUIRED.—Except  
2 as provided in subsection (c), the commitments de-  
3 scribed in paragraphs (1) and (2) are confirmed as  
4 effective and binding, in accordance with the terms  
5 of the commitments, without further action by the  
6 Klamath Tribes.

7           (4) ADDITIONAL COMMITMENTS.—The Klamath  
8 Tribes (on behalf of the tribe and the members of  
9 the tribe) may make additional commitments and as-  
10 surances in exchange for the resolution of its claims  
11 described in section 1.3.1 or 2.5.1 of the Upper  
12 Basin Agreement, subject to the conditions that the  
13 commitments and assurances shall be—

14                   (A) consistent with this Act, the Agree-  
15 ments, and other applicable provisions of law,  
16 based on the totality of the circumstances; and

17                   (B) covered by a written agreement signed  
18 by the Klamath Tribes and the United States  
19 (acting as trustee for the tribe and the mem-  
20 bers of the tribe in Oregon’s Klamath Basin ad-  
21 judication) pursuant to subsection (f).

22           (b) ACTIONS BY KARUK TRIBE AND YUOK  
23 TRIBE.—

24           (1) COMMITMENTS ACKNOWLEDGED AND  
25 AGREED TO.—In consideration for the commitments

1 of the Klamath Project Water Users described in the  
2 Restoration Agreement, and other benefits described  
3 in the Restoration Agreement and this Act, the  
4 Karuk Tribe and the Yurok Tribe (on behalf of the  
5 tribe and the members of the tribe) may make the  
6 commitments provided in the Restoration Agree-  
7 ment.

8 (2) NO FURTHER ACTION REQUIRED.—Except  
9 as provided in subsection (c), the commitments de-  
10 scribed in paragraph (1) are confirmed as effective  
11 and binding, in accordance with the terms of the  
12 commitments, without further action by the Yurok  
13 Tribe or Karuk Tribe.

14 (c) RELEASE OF CLAIMS BY PARTY TRIBES.—

15 (1) IN GENERAL.—Subject to paragraph (2),  
16 subsection (d), and the Agreements, but without oth-  
17 erwise affecting any right secured by a treaty, Exec-  
18 utive order, or other law, the Party tribes (on behalf  
19 of the tribes and the members of the tribes) may re-  
20 linquish and release certain claims against the  
21 United States (including any Federal agencies and  
22 employees) described in sections 15.3.5.A,  
23 15.3.6.B.i, and 15.3.7.B.i of the Restoration Agree-  
24 ment and, in the case of the Klamath Tribes, section  
25 2.5 of the Upper Basin Agreement.

1           (2) CONDITIONS.—The relinquishments and re-  
2           leases under paragraph (1) shall not take force or  
3           effect until the terms described in sections 15.3.5.C,  
4           15.3.5.D, 15.3.6.B.iii, 15.3.7.B.iii, 15.3.7.B.iv, and  
5           33.2.1 of the Restoration Agreement and sections  
6           2.4 and 10 of the Upper Basin Agreement have been  
7           fulfilled.

8           (d) RETENTION OF RIGHTS OF PARTY TRIBES.—  
9           Notwithstanding subsections (a) through (c) or any other  
10          provision of this Act, the Party tribes (on behalf of the  
11          tribes and the members of the tribes) and the United  
12          States (acting as trustee for the Party tribes), shall re-  
13          tain—

14                 (1) all claims and rights described in sections  
15                 15.3.5.B, 15.3.6.B.ii, and 15.3.7.B.ii of the Restora-  
16                 tion Agreement; and

17                 (2) any other claims and rights retained by the  
18                 Party Tribes in negotiations pursuant to section  
19                 15.3.5.D, 15.3.6.B.iv, and 15.3.7.B.iv of the Res-  
20                 toration Agreement.

21          (e) TOLLING OF CLAIMS.—

22                 (1) IN GENERAL.—Subject to paragraph (2),  
23                 the period of limitation and time-based equitable de-  
24                 fense relating to a claim described in subsection (c)  
25                 shall be tolled during the period—

1 (A) beginning on the date of enactment of  
2 this Act; and

3 (B) ending on the earlier of—

4 (i) the date on which the Secretary  
5 publishes the notice described in sections  
6 15.3.5.C, 15.3.6.B.iii, and 15.3.7.B.iii of  
7 the Restoration Agreement; or

8 (ii) December 1, 2030.

9 (2) EFFECT OF TOLLING.—Nothing in this sub-  
10 section—

11 (A) revives any claim or tolls any period of  
12 limitation or time-based equitable defense that  
13 expired before the date of enactment of this  
14 Act; or

15 (B) precludes the tolling of any period of  
16 limitation or any time-based equitable defense  
17 under any other applicable law.

18 (f) ACTIONS OF UNITED STATES AS TRUSTEE.—

19 (1) RESTORATION AGREEMENT COMMITMENTS  
20 AUTHORIZED.—In consideration for the commit-  
21 ments of the Klamath Project Water Users de-  
22 scribed in the Restoration Agreement and for other  
23 benefits described in the Restoration Agreement and  
24 this Act, the United States, acting as trustee for the  
25 federally recognized tribes of the Klamath Basin and

1 the members of such tribes, may make the commit-  
2 ments provided in the Restoration Agreement.

3 (2) UPPER BASIN AGREEMENT COMMITMENTS  
4 AUTHORIZED.—In consideration for the commit-  
5 ments of the Off-Project Irrigators described in the  
6 Upper Basin Agreement and for other benefits de-  
7 scribed in the Upper Basin Agreement and this Act,  
8 the United States, acting as trustee for the Klamath  
9 Tribes and the members of the Klamath Tribes, may  
10 make the commitments provided in the Upper Basin  
11 Agreement.

12 (3) NO FURTHER ACTION.—The commitments  
13 described in paragraphs (1) and (2) are confirmed  
14 as effective and binding, in accordance with the  
15 terms of the commitments, without further action by  
16 the United States.

17 (4) ADDITIONAL COMMITMENTS.—The United  
18 States, acting as trustee for the Klamath Tribes and  
19 the members of the Klamath Tribes in Oregon's  
20 Klamath Basin Adjudication, may make additional  
21 commitments and assurances of rights in exchange  
22 for the resolution of the tribal water right claims de-  
23 scribed in section 1.3.1 or 2.5.1 of the Upper Basin  
24 Agreement, subject to the conditions that the com-  
25 mitments or assurances shall be—

1 (A) consistent with this Act, the Agree-  
2 ments, and other applicable provisions of law,  
3 based on the totality of the circumstances; and

4 (B) covered by a written agreement signed  
5 by the Klamath Tribes and the United States  
6 (acting as trustee for the Klamath Tribes and  
7 the members of the tribe in Oregon's Klamath  
8 Basin adjudication) under subsection (a)(3)(B).

9 (g) JUDICIAL REVIEW.—Judicial review of a decision  
10 of the Secretary concerning any right or obligation under  
11 section 15.3.5.C, 15.3.6.B.iii, 15.3.7.B.iii, 15.3.8.B, or  
12 15.3.9 of the Restoration Agreement shall be in accord-  
13 ance with the standard and scope of review under sub-  
14 chapter II of chapter 5, and chapter 7, of title 5, United  
15 States Code (commonly known as the “Administrative  
16 Procedure Act”).

17 (h) EFFECT OF SECTION.—Nothing in this section—  
18 (1) affects the ability of the United States to  
19 take any action—

20 (A) authorized by law to be taken in the  
21 sovereign capacity of the United States, includ-  
22 ing any law relating to health, safety, or the en-  
23 vironment, including—

24 (i) the Federal Water Pollution Con-  
25 trol Act (33 U.S.C. 1251 et seq.);

1 (ii) the Safe Drinking Water Act (42  
2 U.S.C. 300f et seq.);

3 (iii) the Solid Waste Disposal Act (42  
4 U.S.C. 6901 et seq.);

5 (iv) the Comprehensive Environmental  
6 Response, Compensation, and Liability Act  
7 of 1980 (42 U.S.C. 9601 et seq.);

8 (v) the Endangered Species Act of  
9 1973 (16 U.S.C. 1531 et seq.); and

10 (vi) regulations implementing the Acts  
11 described in this subparagraph;

12 (B) as trustee for the benefit of any feder-  
13 ally recognized Indian tribe other than an In-  
14 dian tribe of the Klamath Basin;

15 (C) as trustee for the Party tribes to en-  
16 force the Agreements and this Act through such  
17 legal and equitable remedies as are available in  
18 an appropriate United States court or State  
19 court or administrative proceeding, including  
20 Oregon's Klamath Basin adjudication; or

21 (D) as trustee for the federally recognized  
22 Indian tribes of the Klamath Basin and the  
23 members of the tribes, in accordance with the  
24 Agreements and this Act—

1 (i) to acquire water rights after the  
2 effective date of the Agreements (as de-  
3 fined in section 1.5.1 of the Restoration  
4 Agreement and section 14.3 of the Upper  
5 Basin Agreement);

6 (ii) to use and protect water rights,  
7 including water rights acquired after the  
8 effective date of the Agreements (as de-  
9 fined in section 1.5.1 of the Restoration  
10 Agreement and section 14.3 of the Upper  
11 Basin Agreement), subject to the Agree-  
12 ments; or

13 (iii) to claim a water right or continue  
14 to advocate for an existing claim for water  
15 rights in an appropriate United States  
16 court or State court or administrative pro-  
17 ceeding, subject to the Agreements;

18 (2) affects the treaty fishing, hunting, trapping,  
19 pasturing, or gathering right of any Indian tribe ex-  
20 cept to the extent expressly provided in this Act or  
21 the Agreements; or

22 (3) affects any right, remedy, privilege, immu-  
23 nity, power, or claim not specifically relinquished  
24 and released under, or limited by, this Act or the  
25 Agreements.

1 **SEC. 6. WATER AND POWER PROVISIONS.**

2 The Klamath Basin Water Supply Enhancement Act  
3 of 2000 (Public Law 106–498; 114 Stat. 2221) is amend-  
4 ed—

5 (1) by redesignating sections 4 through 6 as  
6 sections 5 through 7, respectively; and

7 (2) by inserting after section 3 the following:

8 **“SEC. 4. WATER MANAGEMENT AND PLANNING ACTIVITIES.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) OFF-PROJECT AREA.—The term ‘Off-  
11 Project Area’ means—

12 “(A) the areas within the Sprague River,  
13 Sycan River, Williamson River, and Wood Val-  
14 ley (including Crooked Creek, Sevenmile Creek,  
15 Fourmile Creek, and Crane Creek) subbasins  
16 referred to in Exhibit B of the Upper Basin  
17 Agreement; and

18 “(B) to the extent provided for in the  
19 Upper Basin Agreement, any other areas for  
20 which claims described by section 1.3 or 2.5.1  
21 of the Upper Basin Agreement are settled as  
22 provided for in section 2.5.1 of the Upper Basin  
23 Agreement.

24 “(2) ON-PROJECT POWER USER.—The term  
25 ‘On-Project Power User’ has the meaning given the  
26 term in the Restoration Agreement.

1           “(3) RESTORATION AGREEMENT.—The term  
2           ‘Restoration Agreement’ means the agreement enti-  
3           tled ‘Klamath River Basin Restoration Agreement  
4           for the Sustainability of Public and Trust Resources  
5           and Affected Communities’ and dated February 18,  
6           2010 (including any amendments adopted prior to  
7           the date of enactment of this Act and any further  
8           amendment to that agreement approved pursuant to  
9           section 3(a) of the Klamath Basin Water Recovery  
10          and Economic Restoration Act of 2015).

11          “(4) UPPER BASIN AGREEMENT.—The term  
12          ‘Upper Basin Agreement’ means the agreement enti-  
13          tled ‘Upper Klamath Basin Comprehensive Agree-  
14          ment’ and dated April 18, 2014 (including any  
15          amendment to that agreement).

16          “(b) ACTION BY SECRETARY.—

17                 “(1) IN GENERAL.—The Secretary may carry  
18                 out any activities, including by entering into an  
19                 agreement or contract or otherwise making financial  
20                 assistance available—

21                         “(A) to align water supplies with demand,  
22                         including activities to reduce water consumption  
23                         and demand, consistent with the Restoration  
24                         Agreement or the Upper Basin Agreement;

1           “(B) to limit the net costs of power used  
2           to manage water (including by arranging for  
3           delivery of Federal power, consistent with the  
4           Restoration Agreement and the Upper Basin  
5           Agreement) for—

6                   “(i) the Klamath Project (within the  
7                   meaning of section 2);

8                   “(ii) the On-Project Power Users;

9                   “(iii) irrigators in the Off-Project  
10                  Area; and

11                  “(iv) the Klamath Basin National  
12                  Wildlife Refuge Complex; and

13                  “(C) to restore any ecosystem and other-  
14                  wise protect fish and wildlife in the Klamath  
15                  Basin watershed, including tribal fishery re-  
16                  sources held in trust, consistent with Restora-  
17                  tion Agreement and the Upper Basin Agree-  
18                  ment.

19                  “(2) INCLUSION.—Purchases of power by the  
20                  Secretary under paragraph (1)(B) shall be consid-  
21                  ered an authorized sale under section 5(b)(3) of the  
22                  Pacific Northwest Electric Power Planning and Con-  
23                  servation Act (16 U.S.C. 839c(b)(3)).

24                  “(3) POWER-RELATED PLANS AND REPORT-  
25                  ING.—

1           “(A) IN GENERAL.—The Secretary is di-  
2           rected to ensure that the financial and engi-  
3           neering plan developed under section 17.7.2 of  
4           the Restoration Agreement is completed and  
5           approved in a timely manner. .

6           “(B) SUBMISSION.—The Secretary shall  
7           submit the plan described in subparagraph (A)  
8           to the House Committee on Resources and the  
9           Senate Committee on Energy and Natural Re-  
10          sources no later than 1 year after enactment of  
11          this section, along with a report of the Sec-  
12          retary describing how the plan and actions of  
13          the Secretary supporting or complementary to  
14          the plan will result in attainment of the deliv-  
15          ered power cost target identified in section 17.1  
16          of the Restoration Agreement.

17          “(C) INCLUSIONS.—

18                 “(i) As part of the submittals de-  
19                 scribed in subparagraph (B), the Secretary  
20                 shall report on the feasibility of transfer-  
21                 ring the East Side Development or  
22                 Westside Development or both to an entity  
23                 that would own and manage the East Side  
24                 Development or Westside Development for

1 the benefit of the On-Project Power Users  
2 and the irrigators in the Off-Project Area.

3 “(ii) As part of the submittals de-  
4 scribed in subparagraph (B), the Commis-  
5 sioner of Reclamation shall study and re-  
6 port on the feasibility of adding hydro-  
7 power-based electric generation to the  
8 Keno Facility, to be managed for the ben-  
9 efit of the On-Project Power Users and the  
10 irrigators in the Off-Project Area.

11 “(D) INFORMATION FOR PARTIES.—Within  
12 60 days of the submittals described in subpara-  
13 graph (B), the Commissioner of Reclamation, in  
14 collaboration with the Management Entity de-  
15 scribed in section 17.4 of the Restoration  
16 Agreement, shall provide to the parties to the  
17 Restoration Agreement information, including  
18 economic analysis, that may be useful to the  
19 parties or Klamath Basin Coordinating Council  
20 in developing proposed modifications to the  
21 Restoration Agreement or any Appendix thereto  
22 that would support or enable the attainment of  
23 the delivered power cost target in section 17.1  
24 of the Restoration Agreement.

1           “(4) INTERIM POWER PROGRAM.—The Sec-  
2           retary is authorized and directed to immediately im-  
3           plement, upon enactment of this Act, the Interim  
4           Power Program element as identified and described  
5           in section 17.5.1 of the Restoration Agreement; pro-  
6           vided, that the Interim Power Program element shall  
7           terminate when the Secretary certifies to the House  
8           Committee on Resources and the Senate Committee  
9           on Energy and Natural Resources the plan and ac-  
10          tions identified in subparagraph B of paragraph 3  
11          are fully implemented and successful, and this provi-  
12          sion of this Act shall be controlling as to the scope  
13          and duration of the Interim Power Program ele-  
14          ment.

15          “(c) WATER SUPPLY RELIABILITY.—

16                 “(1) KLAMATH PROJECT DIVERSION AND DE-  
17          LIVERY.—

18                 “(A) FINALITY OF APPROVALS.—The con-  
19          dition in section 15.3.1.A.i. of the Restoration  
20          Agreement has not occurred unless the regu-  
21          latory approvals identified in that section are in  
22          effect and final; provided, that this limitation  
23          applies to a regulatory approval under section  
24          22.2 only if an application is submitted by the  
25          date identified in section 15.3.1.A.i. of the Res-

1           toration Agreement. For the purposes of this  
2           subsection, regulatory approvals are not final  
3           unless the applicable statute of limitations for  
4           contesting all such regulatory approvals has run  
5           and any litigation contesting a regulatory ap-  
6           proval is fully resolved and the regulatory ap-  
7           proval remains in effect. A request for judicial  
8           review of regulatory approvals of an application  
9           under section 22.2 of the Restoration Agree-  
10          ment shall be filed not later than 90 days after  
11          such approvals are issued, and by a person who  
12          participated in the administrative proceedings  
13          leading to the issuance of the regulatory ap-  
14          provals. The scope of such review shall be lim-  
15          ited to the administrative record and the stand-  
16          ard of review shall be that prescribed in section  
17          706(2)(A)-(D) of title 5, United States Code.

18           “(B) INTERIM DELIVERY.—During any pe-  
19          riod that the conditions in sections 15.3.1.A.ii.-  
20          iv. of the Restoration Agreement have occurred  
21          and the regulatory approvals identified in sec-  
22          tion 15.3.1.A.i of the Restoration Agreement  
23          are in effect but not final, section 15.1.2.A.-B.  
24          and 15.1.2.D.-I. of the Restoration Agreement  
25          shall be in effect.

1           “(2) KLAMATH PROJECT REGULATORY ASSUR-  
2           ANCES.—The Secretary and the Secretary of Com-  
3           merce shall decide whether to issue a permit based  
4           on an application under section 22.2.1 of the Res-  
5           toration Act and section 10(a)(1)(B) of the Endan-  
6           gered Species Act within three years of a complete  
7           application being submitted, subject to appropria-  
8           tions.

9           “(3) OFF-PROJECT REGULATORY ASSUR-  
10          ANCES.—If, as described in the Agreements, non-  
11          Federal Parties to the Agreements apply for a per-  
12          mit under section 10(a)(1)(B) of the Endangered  
13          Species Act for activities described in the Agree-  
14          ments, the Secretary and the Secretary of Commerce  
15          shall decide whether to issue such a permit within  
16          three years of a complete application being sub-  
17          mitted, subject to appropriations.

18          “(4) COMPLETE APPLICATION.—For purposes  
19          of paragraphs (2) and (3) of this subsection, an ap-  
20          plication for a permit under section 10(a)(1)(B) is  
21          complete if the Secretary or the Secretary of Com-  
22          merce, as applicable, determines that it meets the  
23          applicable requirements for a complete application  
24          under section 10(a) of the Endangered Species Act

1 and regulations promulgated under authority of the  
2 Endangered Species Act.

3 “(2) INCLUSION.—Purchases of power by the  
4 Secretary under paragraph (1)(B) shall be consid-  
5 ered an authorized sale under section 5(b)(3) of the  
6 Pacific Northwest Electric Power Planning and Con-  
7 servation Act (16 U.S.C. 839c(b)(3)).”.

8 **SEC. 7. KLAMATH TRIBES TRIBAL RESOURCE FUND.**

9 (a) ESTABLISHMENT.—There is established in the  
10 Treasury of the United States a fund to be known as the  
11 “Klamath Tribes Tribal Resource Fund” (referred to in  
12 this section as the “Fund”), consisting of the amounts de-  
13 posited in the Fund under subsection (b), together with  
14 any interest earned on those amounts, to be managed, in-  
15 vested, and administered by the Secretary for the benefit  
16 of the Klamath Tribes in accordance with the terms of  
17 section 2.4 of the Upper Basin Agreement, to remain  
18 available until expended.

19 (b) TRANSFERS TO FUND.—The Fund shall consist  
20 of such amounts as are appropriated to the Fund under  
21 subsection (i), which shall be deposited in the Fund not  
22 later than 60 days after the amounts are appropriated and  
23 any interest under subsection (c) or (d).

24 (c) MANAGEMENT BY THE SECRETARY.—Absent an  
25 approved tribal investment plan under subsection (d) or

1 an economic development plan under subsection (e), the  
2 Secretary shall manage, invest, and distribute all amounts  
3 in the Fund in a manner that is consistent with the invest-  
4 ment authority of the Secretary under—

5 (1) the first section of the Act of June 24,  
6 1938 (25 U.S.C. 162a);

7 (2) the American Indian Trust Fund Manage-  
8 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.);  
9 and

10 (3) this section.

11 (d) INVESTMENT BY THE KLAMATH TRIBES.—

12 (1) INVESTMENT PLAN.—

13 (A) IN GENERAL.—In lieu of the invest-  
14 ment provided for in subsection (c), the Klam-  
15 ath Tribes may submit a tribal investment plan  
16 to the Secretary, applicable to all or part of the  
17 Fund, excluding the amounts described in sub-  
18 section (e)(4)(A).

19 (B) APPROVAL.—Not later than 60 days  
20 after the date on which a tribal investment plan  
21 is submitted under subparagraph (A), the Sec-  
22 retary shall approve such investment plan if the  
23 Secretary finds that the plan—

24 (i) is reasonable and sound;

1 (ii) meets the requirements of the  
2 American Indian Trust Fund Management  
3 Reform Act of 1994 (25 U.S.C. 4001 et  
4 seq.); and

5 (iii) meets the requirements of this  
6 section.

7 (C) DISAPPROVAL.—If the Secretary does  
8 not approve the tribal investment plan, the Sec-  
9 retary shall set forth in writing the particular  
10 reasons for the disapproval.

11 (2) DISBURSEMENT.—If the tribal investment  
12 plan is approved by the Secretary, the funds involved  
13 shall be disbursed from the Fund to the Klamath  
14 Tribes to be invested by the Klamath Tribes in ac-  
15 cordance with the approved tribal investment plan,  
16 subject to the requirements of this section.

17 (3) COMPLIANCE.—The Secretary may take  
18 such steps as the Secretary determines to be nec-  
19 essary to monitor the compliance of a Tribe with an  
20 investment plan approved under paragraph (1)(B).

21 (4) LIMITATION ON LIABILITY.—The United  
22 States shall not be—

23 (A) responsible for the review, approval, or  
24 audit of any individual investment under an ap-  
25 proved investment plan; or

1 (B) directly or indirectly liable with respect  
2 to any such investment, including any act or  
3 omission of the Klamath Tribes in managing or  
4 investing amounts in the Fund.

5 (5) REQUIREMENTS.—The principal and income  
6 derived from tribal investments carried out pursuant  
7 to an investment plan approved under subparagraph  
8 (B) shall be—

9 (A) subject to the requirements of this sec-  
10 tion; and

11 (B) expended only in accordance with an  
12 economic development plan approved under sub-  
13 section (e).

14 (e) ECONOMIC DEVELOPMENT PLAN.—

15 (1) IN GENERAL.—The Klamath Tribes shall  
16 submit to the Secretary an economic development  
17 plan for the use of the Fund, including the expendi-  
18 ture of any principal or income derived from man-  
19 agement under subsection (c) or from tribal invest-  
20 ments carried out under subsection (d).

21 (2) APPROVAL.—Not later than 60 days after  
22 the date on which an economic development plan is  
23 submitted under paragraph (1), the Secretary shall  
24 approve the economic development plan if the Sec-  
25 retary finds that the plan meets the requirements of

1 the American Indian Trust Fund Management Re-  
2 form Act of 1994 (25 U.S.C. 4001 et seq.) and this  
3 section.

4 (3) USE OF FUNDS.—The economic develop-  
5 ment plan under this subsection shall—

6 (A) require that the Klamath Tribes spend  
7 all amounts withdrawn from the Fund in ac-  
8 cordance with this section; and

9 (B) include such terms and conditions as  
10 are necessary to meet the requirements of this  
11 section.

12 (4) RESOURCE ACQUISITION AND ENHANCE-  
13 MENT PLAN.—The economic development plan shall  
14 include a resource acquisition and enhancement  
15 plan, which shall—

16 (A) require that not less than 1/2 of the  
17 amounts appropriated for each fiscal year to  
18 carry out this section shall be used to enhance,  
19 restore, and utilize the natural resources of the  
20 Klamath Tribes, in a manner that also provides  
21 for the economic development of the Klamath  
22 Tribes and, as determined by the Secretary, di-  
23 rectly or indirectly benefit adjacent non-Indian  
24 communities; and

1 (B) be reasonably related to the protection,  
2 acquisition, enhancement, or development of  
3 natural resources for the benefit of the Klamath  
4 Tribes and members of the Klamath Tribes.

5 (5) MODIFICATION.—Subject to the require-  
6 ments of [this Act] and approval by the Secretary,  
7 the Klamath Tribes may modify a plan approved  
8 under this subsection.

9 (6) LIMITATION ON LIABILITY.—The United  
10 States shall not be directly or indirectly liable for  
11 any claim or cause of action arising from—

12 (A) the approval of a plan under this para-  
13 graph; or

14 (B) the use or expenditure by the Klamath  
15 Tribes of any amount in the Fund.

16 (f) LIMITATION ON PER CAPITA DISTRIBUTIONS.—  
17 No amount in the Fund (including any income accruing  
18 to the amount) and no revenue from any water use con-  
19 tract may be distributed to any member of the Klamath  
20 Tribes on a per capita basis.

21 (g) LIMITATION ON DISBURSEMENT.—

22 (1) IN GENERAL.—Subject to paragraph (2),  
23 amounts in the Fund shall not be available for dis-  
24 bursement under this section until the Klamath  
25 Tribes—

1 (A) make the commitments set forth in the  
2 Agreements; and

3 (B) are determined by the Secretary to be  
4 in substantial compliance with those commit-  
5 ments.

6 (2) EARLY DISBURSEMENT.—Based on the  
7 unique history of the loss of reservation land by the  
8 Klamath Tribes through termination of Federal rec-  
9 ognition and acknowledging that restoration of tribal  
10 land is essential to building the tribal economy and  
11 achieving self-determination, the Secretary may dis-  
12 burse funds to the Klamath Tribes prior to the sat-  
13 isfaction of the requirements of paragraph (1) on a  
14 determination by the Secretary that such funds are  
15 available and that early disbursement will support  
16 activities designed to increase employment opportu-  
17 nities for members of the Klamath Tribes.

18 (3) AGREEMENTS.—Any such disbursement  
19 shall be in accordance with a written agreement be-  
20 tween the Secretary and the Klamath Tribes that  
21 provides the following:

22 (A) For any disbursement to purchase land  
23 that is to be placed in trust pursuant to section  
24 6 of the Klamath Indian Tribe Restoration Act  
25 (25 U.S.C. 566d), the written agreement shall

1 specify that if assurances made do not become  
2 permanent as described in section 15.3.3 of the  
3 Restoration Agreement and on publication of a  
4 notice by the Secretary pursuant to section  
5 15.3.4.C of the Restoration Agreement or sec-  
6 tion 10.2 of the Upper Basin Agreement, any  
7 land purchased with disbursements from the  
8 Fund shall revert back to sole ownership by the  
9 United States unless, prior to reversion, the  
10 Klamath Tribes enter into a written agreement  
11 to repay the purchase price to the United  
12 States, without interest, in annual installments  
13 over a period not to exceed 40 years.

14 (B) For any disbursement to support eco-  
15 nomic activity and creation of tribal employ-  
16 ment opportunities (including any rehabilitation  
17 of existing properties to support economic ac-  
18 tivities), the written agreement shall specify  
19 that if assurances made do not become perma-  
20 nent as described in section 15.3.3 of the Res-  
21 toration Agreement and on publication of a no-  
22 tice by the Secretary pursuant to section  
23 15.3.4.C of the Restoration Agreement or sec-  
24 tion 10.2 of the Upper Basin Agreement, any  
25 amounts disbursed from the Fund shall be re-

1           paid to the United States, without interest, in  
2           annual installments over a period not to exceed  
3           40 years.

4           (h) PROHIBITION.—Amounts in the Fund may not  
5 be made available for any purpose other than a purpose  
6 described in this section.

7           (i) ANNUAL REPORTS.—

8           (1) IN GENERAL.—Not later than 60 days after  
9 the end of each fiscal year beginning with fiscal year  
10 2015, the Secretary shall submit to the Committee  
11 on Appropriations of the House of Representatives,  
12 the Committee on Appropriations of the Senate, and  
13 the appropriate authorizing committees of the Sen-  
14 ate and the House of Representatives a report on  
15 the operation of the Fund during the fiscal year.

16           (2) CONTENTS.—Each report shall include, for  
17 the fiscal year covered by the report, the following:

18           (A) A statement of the amounts deposited  
19 into the Fund.

20           (B) A description of the expenditures made  
21 from the Fund for the fiscal year, including the  
22 purpose of the expenditures.

23           (C) Recommendations for additional au-  
24 thorities to fulfill the purpose of the Fund.

1 (D) A statement of the balance remaining  
2 in the Fund at the end of the fiscal year.

3 (j) NO THIRD PARTY RIGHTS.—This section does not  
4 create or vest rights or benefits for any party other than  
5 the Klamath Tribes and the United States.

6 (k) AUTHORIZATION OF APPROPRIATIONS.—There is  
7 authorized to be appropriated to carry out this section  
8 \$8,000,000 for each fiscal year, not to exceed a total  
9 amount of \$40,000,000.

10 (1) IN GENERAL.—Notwithstanding any other  
11 Federal, State, local, or common law, the current li-  
12 censee of Commission Project No. 2082 at the time  
13 of the passage of this legislation, upon transfer of  
14 any project works to any third party for purposes of  
15 decommissioning, shall not be liable for any harm to  
16 an individual or entity, property, or the environment,  
17 or any damages resulting from decommissioning  
18 arising from, relating to, or triggered by actions as-  
19 sociated with decommissioning, including any dam-  
20 age caused by the release of any material or sub-  
21 stance (including a hazardous substance).

22 (2) FUNDING.—Notwithstanding any other  
23 Federal, State, local, or common law, no individual  
24 or entity contributing funds for facilities removal  
25 shall be held liable, solely by virtue of that funding,

1 for any harm to an individual or entity, property, or  
2 the environment, or damages arising from facilities  
3 removal or facility operations arising from, relating  
4 to, or triggered by actions associated with facilities  
5 removal under **【this Act】**, including any damage  
6 caused by the release of any material or substance  
7 (including a hazardous substance).

8 (3) PREEMPTION.—Notwithstanding section  
9 10(c) of the Federal Power Act (16 U.S.C. 803(c)),  
10 protection from liability pursuant to this section  
11 shall preempt the laws of any State to the extent the  
12 laws are inconsistent with **【this Act】**, except that  
13 **【this Act】** shall not limit any otherwise-available im-  
14 munity, privilege, or defense under any other provi-  
15 sion of law.

16 (1) KENO FACILITY.—

17 (A) TRANSFER.—The Secretary shall ac-  
18 cept the transfer of title to the Keno Facility to  
19 the United States.

20 (B) EFFECT OF TRANSFER.—On the  
21 transfer under subparagraph (A), and without  
22 further action by Congress—

23 (i) the Keno Facility shall—

24 (I) become part of the Klamath  
25 Project; and

1 (II) be operated and maintained  
2 in accordance with the Federal re-  
3 clamation laws, the Restoration Agree-  
4 ment and [this Act]; and  
5 (ii) the jurisdiction of the Commission  
6 over the Keno Facility shall terminate.

7 **SEC. 8. ADMINISTRATION AND FUNDING.**

8 (a) AGREEMENTS.—

9 (1) IN GENERAL.—The Secretaries may enter  
10 into such agreements (including contracts, memo-  
11 randa of understanding, financial assistance agree-  
12 ments, cost sharing agreements, and other appro-  
13 priate agreements) with State, tribal, and local gov-  
14 ernment agencies or private individuals and entities  
15 as the Secretary concerned consider to be necessary  
16 to carry out [this Act] and the Agreements, subject  
17 to such terms and conditions as the Secretary con-  
18 cerned considers to be necessary.

19 (2) TRIBAL PROGRAMS.—Consistent with para-  
20 graph (1) and section 32 of the Restoration Agree-  
21 ment, the Secretaries shall give priority to qualified  
22 Party tribes in awarding grants, contracts, or other  
23 agreements for purposes of implementing the fish-  
24 eries programs described in part III of the Restora-  
25 tion Agreement.

1 (b) ESTABLISHMENT OF ACCOUNTS.—There are es-  
2 tablished in the Treasury for the deposit of appropriations  
3 and other funds (including non-Federal donated funds)  
4 the following noninterest-bearing accounts:

5 (1) The On-Project Plan and Power for Water  
6 Management Fund, to be administered by the Bu-  
7 reau of Reclamation.

8 (2) The Water Use Retirement and Off-Project  
9 Reliance Fund, to be administered by the United  
10 States Fish and Wildlife Service.

11 (3) The Klamath Drought Fund, to be adminis-  
12 tered by the National Fish and Wildlife Foundation.

13 (c) MANAGEMENT.—

14 (1) IN GENERAL.—The accounts established by  
15 subsection (b) shall be managed in accordance with  
16 **[this Act]** and section 14.3 of the Restoration  
17 Agreement.

18 (2) TRANSFERS.—Notwithstanding section  
19 1535 of title 31, United States Code, the Secretaries  
20 are authorized to enter into interagency agreements  
21 for the transfer of Federal funds between Federal  
22 programs for the purpose of implementing **[this**  
23 **Act]** and the Agreements.

24 (d) ACCEPTANCE AND EXPENDITURE OF NON-FED-  
25 ERAL FUNDS.—

1           (1) IN GENERAL.—Notwithstanding title 31,  
2           United States Code, the Secretaries may accept and  
3           expend, without further appropriation, non-Federal  
4           funds, in-kind services, or property for purposes of  
5           implementing the Settlement.

6           (2) USE.—The funds and property described in  
7           paragraph (1) may be expended or used, as applica-  
8           ble, only for the purpose for which the funds or  
9           property were provided.

10          (e) FUNDS AVAILABLE UNTIL EXPENDED.—All  
11          funds made available for the implementation of the Agree-  
12          ments shall remain available until expended.

13          (f) TERMINATION OF AGREEMENTS.—If any Agree-  
14          ment terminates—

15                (1) any appropriated Federal funds provided to  
16                a party that are unexpended at the time of the ter-  
17                mination of the Agreement shall be returned to the  
18                general fund of the Treasury; and

19                (2) any appropriated Federal funds provided to  
20                a party shall be treated as an offset against any  
21                claim for damages by the party arising under the  
22                Agreement.

23          (g) BUDGET.—

24                (1) IN GENERAL.—The budget of the President  
25                shall include such requests as the President con-

1       siders to be necessary for the level of funding for  
2       each of the Federal agencies to carry out the respon-  
3       sibilities of the agencies under the Agreements.

4           (2) CROSSCUT BUDGET.—Not later than the  
5       date of submission of the budget of the President to  
6       Congress for each fiscal year, the Director of the Of-  
7       fice of Management and Budget shall submit to the  
8       appropriate authorizing and appropriating commit-  
9       tees of the Senate and the House of Representatives  
10      a financial report containing—

11           (A) an interagency budget crosseut report  
12      that displays the budget proposed for each of  
13      the Federal agencies to carry out the Agree-  
14      ments for the upcoming fiscal year, separately  
15      showing funding requested under preexisting  
16      authorities and new authorities provided by  
17      **【this Act】**;

18           (B) a detailed accounting of all funds re-  
19      ceived and obligated by all Federal agencies re-  
20      sponsible for implementing the Agreements; and

21           (C) a budget for proposed actions to be  
22      carried out in the upcoming fiscal year by the  
23      applicable Federal agencies in the upcoming fis-  
24      cal year.

1 (h) REPORT TO CONGRESS.—Not later than the date  
2 of submission of the budget of the President to Congress  
3 for each fiscal year, the Secretaries shall submit to the  
4 appropriate authorizing committees of the Senate and the  
5 House of Representatives a report that describes—

6 (1) the status of implementation of all of the  
7 Agreements;

8 (2) expenditures during the preceding fiscal  
9 year for implementation of all of the Agreements;

10 (3) the current schedule and funding levels that  
11 are needed to complete implementation of each of  
12 the Agreements;

13 (4) achievements in advancing the purposes of  
14 complying with the Endangered Species Act of 1973  
15 (16 U.S.C. 1531 et seq.) under the Agreements;

16 (5) additional achievements in restoring fish-  
17 eries under the Agreements;

18 (6) the status of water deliveries for the pre-  
19 ceding water year and projections for the upcoming  
20 water year for—

21 (A) the Klamath Project and irrigators in  
22 the Off-Project Area pursuant to the Agree-  
23 ments; and

24 (B) the National Wildlife Refuges in areas  
25 covered by the Agreements;

1 (7) the status of achieving the goals of sup-  
2 porting sustainable agriculture production (including  
3 the goal of limiting net power costs for water man-  
4 agement) and general economic development in the  
5 Klamath Basin;

6 (8) the status of achieving the goal of sup-  
7 porting the economic development of the Party  
8 tribes;

9 (9) the assessment of the Secretaries of the  
10 progress being made toward completing implementa-  
11 tion of the Agreements;

12 (10)(A) identification of performance measures  
13 established for the goals of the Agreements; and

14 (B) until achieved, the assessment of the Secre-  
15 taries of the progress being made toward meeting  
16 the performance measures.

17 **SEC. 9. KLAMATH TRIBES LAND RESTORATION AND ECO-**  
18 **NOMIC DEVELOPMENT.**

19 (a) TRANSFER OF LANDS.—

20 (1) TRANSFER OF LAND.—Not later than 1  
21 year after the date of enactment of this Act, and  
22 subject to valid existing rights, all right, title, and  
23 interest of the United States in former reservation  
24 land of the Klamath Tribes, described on the map  
25 entitled “Restored Lands of the Klamath Tribes”

1       dated \_\_\_\_\_, 2015, within the boundaries of the  
2       Winema National Forest, are legislatively trans-  
3       ferred to the Secretary of the Interior to be—

4               (A) held in trust by the United States for  
5       the benefit of the Klamath Tribes; and

6               (B) part of the reservation of the Klamath  
7       Tribes.

8       (2) INCLUSIONS.—The land transferred under  
9       paragraph (1) shall—

10              (A) include any improvements or appur-  
11       tenances located on the land;

12              (B) remain subject to valid existing rights;  
13       and

14              (C) include any reservations of easements  
15       for road rights-of-way determined by the Sec-  
16       retary of Agriculture to be necessary to main-  
17       tain public access or administrative access to  
18       National Forest System land.

19       (b) TRANSFERRED LAND.—

20              (1) CONTINUATION OF SPECIAL USE AUTHOR-  
21       IZATIONS.—Upon the transfer of land under this  
22       subsection—

23              (A) any existing special use authorization  
24       issued by the Forest Service for use of the  
25       transferred land shall terminate; and

1 (B) as condition of the transfer, the Klamath Tribes and the Secretary of the Interior  
2 shall consider allowing the holder of a special  
3 use authorization to continue the use, subject to  
4 the same terms and conditions that were in the  
5 special use authorization issued by the Forest  
6 Service, for the remainder of the term of the  
7 authorization.  
8

9 (2) ADMINISTRATION.—Upon the transfer of  
10 land under this subsection, the Secretary of the Interior shall administer any valid existing right on the  
11 transferred land subject to the same terms and conditions that applied on the date before enactment of  
12 this subsection.  
13

14 (3) NON-PERMISSIBLE USE OF LAND.—Any real  
15 property taken into trust under this section shall not  
16 be eligible, or used, for any gaming activity carried  
17 out under Public Law 100–497 (25 U.S.C. 2701 et  
18 seq.).  
19

20 (4) FOREST MANAGEMENT.—

21 (A) IN GENERAL.—Any commercial forestry activity that is carried out on the transferred land shall be managed in accordance  
22 with all applicable Federal laws.  
23  
24

1 (B) EXPORT OF LOGS.—Unprocessed logs  
2 harvested from the lands transferred under this  
3 subsection shall be subject to the same federal  
4 statutory restrictions on export to foreign na-  
5 tions that apply to unprocessed logs harvested  
6 from Federal land.

7 (c) ADMINISTRATION.—

8 (1) SURVEY.—As soon as is practicable after  
9 the date on which lands are transferred, the Sec-  
10 retary of the Interior and the Klamath Tribes shall  
11 complete a survey of the boundary lines to establish  
12 the agreed upon boundaries of the land taken into  
13 trust under subsection (b)(1) of this subsection.

14 (2) MAP AND LEGAL DESCRIPTION.—

15 (A) IN GENERAL.—As soon as practicable  
16 after the date on which lands for transfer are  
17 identified, the Secretary shall file the map enti-  
18 tled “Restored Lands of the Klamath Tribes”  
19 dated \_\_\_\_\_, 2015 and legal description of  
20 the Federal land with—

21 (i) the Committee on Energy and  
22 Natural Resources of the Senate; and

23 (ii) the Committee on Natural Re-  
24 sources of the House of Representatives.

1 (B) FORCE AND EFFECT.—The map and  
2 legal description filed under subparagraph (A)  
3 may be corrected by the Secretary for any cler-  
4 ical or typographical errors in the map or legal  
5 description.

6 (C) PUBLIC AVAILABILITY.—The map and  
7 legal description filed under subparagraph (A)  
8 shall be on file and available for public inspec-  
9 tion in the Office of the Secretary.

10 (3) SAVINGS PROVISION.—Except as expressly  
11 provided in this section, nothing in this section af-  
12 fects any right or claim of the Klamath Tribes exist-  
13 ing on the date of enactment of this Act to any land  
14 or interest in land.

15 (4) COSTS.—The cost of surveying the new Na-  
16 tional Forest boundary and any other administrative  
17 costs of carrying out the land transfer shall be paid  
18 by the Bureau of Indian Affairs.

19 **SEC. 10. ELECTION OF ELIGIBLE NATIONAL FOREST SYS-**  
20 **TEM LANDS.**

21 (a) DEFINITIONS.—In this [section]:

22 (1) The term “available portions of Fremont-  
23 Winema National Forests” means all right, title,  
24 and interest of the United States in and to the sur-  
25 face and subsurface estate of National Forest Sys-

1       tem lands administered as part of Fremont-Winema  
2       National Forests in the State of Oregon. The term  
3       does not include wilderness areas, wilderness study  
4       areas, national recreation areas, National Forest  
5       campgrounds and picnic areas, national memorials,  
6       and National Forest System lands subject to tradi-  
7       tional use by an Indian tribe.

8               (2) The term “available portions of Klamath  
9       National Forest” means all right, title, and interest  
10       of the United States in and to the surface and sub-  
11       surface estate of National Forest System lands ad-  
12       ministered as part of Klamath National Forest in  
13       the State of California. The term does not include  
14       wilderness areas, wilderness study areas, national  
15       recreation areas, National Forest campgrounds or  
16       picnic areas, national memorials, and National For-  
17       est System lands subject to traditional use by an In-  
18       dian tribe.

19               (3) The term “conveyance-transition period”  
20       means the period beginning on the selection date for  
21       eligible National Forest System lands and ending no  
22       more than one year thereafter.

23               (4) The term “eligible county” means—

1 (A) Klamath County, Oregon, with respect  
2 to available portions of Fremont-Winema Na-  
3 tional Forests; and

4 (B) Siskiyou County, California, with re-  
5 spect to available portions of Klamath National  
6 Forest.

7 (5) The term “eligible National Forest System  
8 lands” means—

9 (A) available portions of Fremont-Winema  
10 National Forests, with respect to Klamath  
11 County, Oregon; and

12 (B) available portions of Klamath National  
13 Forest, with respect to Siskiyou County, Cali-  
14 fornia.

15 (6) The term “Federal obligation” means any  
16 obligation or duty of the Forest Service arising out  
17 of any lease, permit, license, contract, and other  
18 legal instrument issued by or with the Secretary re-  
19 lating to available portions of Fremont-Winema Na-  
20 tional Forests or available portions of Klamath Na-  
21 tional Forest. The term does not include any Forest  
22 Service obligation incurred under a Federal law, reg-  
23 ulation, or policy.

24 (7) The term “patent date” means the last day  
25 of the conveyance-transition period.

1           (8) The term “Secretary” means the Secretary  
2 of Agriculture, acting through the Chief of the For-  
3 est Service.

4           (9) The term “selection date” means the date  
5 on which an eligible county notifies the Secretary of  
6 the selection of eligible National Forest System  
7 lands for acquisition under **[section \_\_\_\_2]**.

8           (b) ELIGIBLE COUNTY SELECTION OF ELIGIBLE NA-  
9 TIONAL FOREST SYSTEM LANDS FOR OWNERSHIP AND  
10 MANAGEMENT.—

11           (1) SELECTION AND ACQUISITION AUTHOR-  
12 IZED.—During the five-year period beginning on the  
13 date of the enactment of this Act, an eligible county  
14 may select up to 100,000 acres of eligible National  
15 Forest System lands and elect to acquire ownership  
16 of the lands under the terms and conditions of this  
17 **[section]**.

18           (2) FORM OF ELECTION.—The selection and  
19 election by an eligible county under paragraph (1)  
20 shall be executed in a manner, developed by the Sec-  
21 retary and the eligible county, that, at a minimum—

22                   (A) identifies the eligible National Forest  
23 System lands to be acquired;

24                   (B) requires acceptance by the eligible  
25 county of Federal obligations related to the eli-

1           gible National Forest System lands to be ac-  
2           quired; and

3           (C) requires compliance by the eligible  
4           county of the procedures specified in this title  
5           and the transition provisions of this title.

6           (3) CONVEYANCE REQUIRED.—Upon receipt by  
7           the Secretary of notice of an eligible county's selec-  
8           tion and election under paragraph (1), executed in  
9           the manner developed pursuant to subsection (b),  
10          the Secretary shall—

11           (A) commence conveyance of the selected  
12           eligible National Forest System lands to the eli-  
13           gible county; and

14           (B) complete conveyance of the selected eli-  
15           gible National Forest System lands before the  
16           end of the selection-transition period.

17          (4) CONVEYANCE PROCEDURE.—The Secretary  
18          shall prepare patents to convey selected eligible Na-  
19          tional Forest System lands to an eligible county.  
20          The duty of the Secretary to prepare and convey  
21          such patents under this title is purely ministerial  
22          and conveyance of the patent on the patent date  
23          shall not be withheld or conditioned by any other  
24          provision of law, except as provided by this title.

1 (5) PROTECTION OF VALID EXISTING RIGHTS.—

2 All conveyances under this subsection shall be sub-  
3 ject to valid existing rights and Federal obligations.

4 (6) OTHER USES.—Beginning on the selection  
5 date and concurrent with the conveyance of eligible  
6 National Forest System lands under this title, the  
7 Secretary shall transfer existing special use permits  
8 related to the conveyed National Forest System  
9 lands to the eligible county.

10 (c) TRANSITION PROVISIONS DURING THE CONVEY-  
11 ANCE-TRANSITION PERIOD.—

12 (1) EXISTING OBLIGATIONS OF THE UNITED  
13 STATES.—The United States shall remain obligated  
14 for all Federal obligations incurred prior to the pat-  
15 ent date for the conveyance of selected eligible Na-  
16 tional Forest System lands.

17 (2) EMPLOYEES.—During the conveyance-tran-  
18 sition period, to the extent practicable, an eligible  
19 county shall interview each employee of the Forest  
20 Service whose employment is rendered obsolete as a  
21 result of the conveyance of eligible National Forest  
22 System lands under this title for purposes of reem-  
23 ployment by the eligible county in a comparable em-  
24 ployment position regarding the eligible National  
25 Forest System lands acquired by the eligible county.

1 Employees who do not secure employment with the  
2 State shall have the option of placement in an equiv-  
3 alent position available within the Federal Govern-  
4 ment.

5 (3) MANAGEMENT PENDING CONVEYANCE.—  
6 During the conveyance-transition period and until  
7 the patent date, except as provided otherwise under  
8 this title, eligible National Forest System lands not  
9 yet patented to the eligible county under this title  
10 shall be administered and managed under the appli-  
11 cable Federal land and resources management plan.

12 (4) TRANSFER OF CERTAIN RECEIPTS.—Re-  
13 cepts from all rentals or sales occurring on selected  
14 eligible National Forest System lands during the  
15 conveyance-transition period shall be kept in escrow  
16 and transferred to the eligible county on the patent  
17 date of such lands.

18 (d) TRANSITION PROVISIONS OUTSIDE OF THE CON-  
19 VEYANCE-TRANSITION PERIOD.—

20 (1) LAND DESIGNATIONS.—Land use designa-  
21 tions in effect on the date of the enactment of this  
22 Act for eligible National Forest System lands con-  
23 veyed to an eligible county under this title under the  
24 applicable Federal land and resources management

1 plan shall continue in effect until changed by the eli-  
2 gible county.

3 (2) ACCESS.—

4 (A) EASEMENTS.—In accordance with the  
5 forest transportation plan applicable to eligible  
6 National Forest System lands and any applica-  
7 ble State transportation plan, the Secretary  
8 shall provide access in the form of easements  
9 across lands owned by the United States to and  
10 from eligible National Forest System lands con-  
11 veyed to the eligible county. The duty of the  
12 Secretary to deliver patents for such easements  
13 shall be purely ministerial and shall not be  
14 withheld or conditioned by any other provision  
15 of law.

16 (B) COUNTY DUTY.—Following the patent  
17 date for eligible National Forest System lands,  
18 the eligible county shall be responsible for the  
19 issuance of easements to the United States for  
20 reasonable access across acquired eligible Na-  
21 tional Forest System lands in the manner pro-  
22 vided in subparagraph (A).

23 (3) MINING CLAIMS.—

24 (A) IN GENERAL.—Federal mining claims  
25 located pursuant to the General Mining Law of

1 1872 (30 U.S.C. 22 et seq.) on eligible National  
2 Forest System lands before the selection date  
3 shall remain subject to the laws, rules, regula-  
4 tions, and policies of the United States, but  
5 such laws, rules, regulations, and policies shall  
6 be administered by the eligible county. The  
7 right and ability of a claim holder to patent  
8 such a mining claim and enjoy reasonable ac-  
9 cess to the claim shall not be infringed. An ap-  
10 plication to patent a Federal mining claim lo-  
11 cated on eligible National Forest System lands  
12 may be made by the claim holder with the eligi-  
13 ble county and shall constitute an election by  
14 the claim holder to be subject to Federal min-  
15 ing claim patent procedures administered by the  
16 eligible county.

17 (B) ESCROW AND SUBSEQUENT TRANS-  
18 FER.—During the conveyance-transition period,  
19 the Federal Government shall escrow all fees  
20 and revenues, if any, due on Federal mining  
21 claims on eligible National Forest System lands  
22 and on the patent date of the lands transfer  
23 those receipts to the eligible county.

24 (4) EXISTING OBLIGATIONS AFTER PATENT  
25 DATE.—On the patent date for eligible National

1 Forest System lands, the eligible county shall as-  
2 sume all Federal obligations and duties and receive  
3 all rights of the Forest Service, except that the eligi-  
4 ble county shall assume no obligation for any claim  
5 for damages or specific performance relating to a  
6 contract or permit, if such claim arose before the  
7 patent date, unless the eligible county receives the  
8 benefit from such an obligation.

9 (e) MISCELLANEOUS DUTIES OF THE PARTIES AND  
10 OTHER PROVISIONS RELATING TO THE TRANSFER.—

11 (1) HAZARDOUS MATERIALS.—As promptly as  
12 practicable after the date of the enactment of this  
13 Act, the Secretary shall make available to the eligi-  
14 ble county for review and inspection, all pertinent  
15 records relating to hazardous materials, if any, on  
16 eligible National Forest System lands available for  
17 selection under this title. The responsibility for costs  
18 of remedial action related to such materials shall be  
19 borne by those entities responsible under existing  
20 law. If no party responsible for the hazardous mate-  
21 rials can be determined, remediation responsibility  
22 and all costs shall remain with the Secretary and re-  
23 mediation as agreed to by the eligible county shall  
24 be initiated as soon as practical after the patent  
25 date.

1           (2) JUDICIAL REVIEW.—Selection of land pur-  
2           suant to this title shall not be subject to judicial re-  
3           view in any court of the United States, except—

4                   (A) to the extent a right of judicial review  
5           is conferred specifically by the United States  
6           Constitution;

7                   (B) otherwise conferred by this title; or

8                   (C) when sought by the eligible county on  
9           matters pertaining to rights conferred by this  
10          Act.

11          (3) RULEMAKING.—No formal rules under sec-  
12          tion 553 of title 5, United States Code, are required  
13          to implement this [section].

14          (4) SURVEY.—The patent for and use of eligible  
15          National Forest System lands shall not be subject to  
16          completion of a field survey and may be issued based  
17          on a protraction survey. However, the Secretary  
18          shall complete a field survey following patent.

19          (5) ENCUMBRANCES.—For purposes of an or-  
20          derly transfer of eligible National Forest System  
21          lands to county ownership and management, the  
22          Secretary shall provide a list of encumbrances and  
23          uses of record and otherwise known on the selected  
24          lands to the eligible county during the conveyance-

- 1 transition period. The lands selected under **[this**
- 2 **Act]** shall be subject to all existing encumbrances.

**DRAFT**