

[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 bureau 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 crossect 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.

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