

107TH CONGRESS
1ST SESSION

H. R. 2573

To ensure that proper planning is undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River basin and the maintenance of reasonably priced, reliable power, to direct the Secretary of Commerce to seek peer review of, and to conduct studies regarding, the National Marine Fisheries Service biological opinion, under the Endangered Species Act of 1973, pertaining to the impacts of Columbia River basin Federal dams on salmon and steelhead listed under the Endangered Species Act of 1973, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2001

Mr. McDERMOTT (for himself, Mr. BONIOR, Mr. PETRI, Ms. MCKINNEY, Mrs. NAPOLITANO, Mr. SHERMAN, Mr. BORSKI, Mr. NEAL of Massachusetts, Mr. PALLONE, Mr. SAWYER, Mr. GEORGE MILLER of California, Mr. GUTIERREZ, Mr. BLAGOJEVICH, Mr. EVANS, Mr. LEACH, Mr. PAYNE, Mr. ANDREWS, Mr. UDALL of New Mexico, Mr. COSTELLO, Mrs. MINK of Hawaii, and Ms. SOLIS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that proper planning is undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River basin and the maintenance of reasonably priced, reliable power, to direct the Secretary of Commerce to seek peer review of, and to conduct studies regarding, the National Marine Fisheries Service biological opinion, under the Endangered Species

Act of 1973, pertaining to the impacts of Columbia River basin Federal dams on salmon and steelhead listed under the Endangered Species Act of 1973, 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.**

4 This Act may be cited as the “Salmon Planning Act”.

5 **SEC. 2. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—Congress finds and declares that—

7 (1) certain species of salmon and steelhead in
8 the Columbia and Snake River basin are on the
9 brink of extinction as a consequence of various fac-
10 tors, including hydroelectric projects, harvest man-
11 agement practices, habitat degradation, altered in-
12 stream flow, and unsound hatchery practices;

13 (2) these salmon and steelhead have major eco-
14 nomic, ecological, educational, recreational, sci-
15 entific, cultural, and spiritual significance to the Na-
16 tion and its people;

17 (3) salmon and steelhead are a symbol of the
18 Northwest, support thousands of jobs in coastal and
19 inland communities, and serve as an indicator of the
20 health of Northwest river ecosystems;

21 (4) the United States Government has signed
22 treaties with Indian tribes of Oregon, Washington,

1 and Idaho and with the Government of Canada cre-
2 ating a legally enforceable trust responsibility to re-
3 store salmon populations to sustainable, harvestable
4 levels;

5 (5) since the construction of 4 Federal dams on
6 the lower Snake River in Washington, salmon and
7 steelhead populations in the Snake River have plum-
8 meted, and all salmon and steelhead in the Snake
9 River are extinct or listed under the Endangered
10 Species Act of 1973 (16 U.S.C. 1531 et seq.);

11 (6) recent studies indicate that the time to pro-
12 tect remaining Snake River salmon and steelhead is
13 short, with scientists estimating that, if changes do
14 not occur, remaining Snake River salmon will be ex-
15 tinct in our lifetime;

16 (7) salmon and steelhead extinction could cost
17 taxpayers billions of dollars;

18 (8) a federally funded group of State, tribal,
19 Federal, and independent scientists found that par-
20 tially removing the 4 lower Snake River dams in
21 Washington is the surest way to protect and recover
22 Snake River salmon and steelhead;

23 (9) several communities that rely on the 4 lower
24 Snake River dams would be affected by partial dam
25 removal;

1 (10) a Federal court has found that the 4 lower
2 Snake River dams violate water quality standards
3 under the Federal Water Pollution Control Act (33
4 U.S.C. 1251 et seq.); and

5 (11) energy production in the Northwest is
6 heavily dependent upon hydropower and thus, the
7 prospects for salmon recovery and Northwest energy
8 production are inextricably linked.

9 (b) PURPOSES.—The purposes of this Act are—

10 (1) to ensure the protection of Columbia and
11 Snake River salmon and steelhead while providing
12 for reliable, reasonably priced energy in the North-
13 west, an economically sustainable salmon recovery
14 program, and effective mitigation of potential eco-
15 nomic impacts to communities from potential dam
16 removal; and

17 (2) to ensure that the Northwest and the Na-
18 tion have completed the necessary planning and eval-
19 uation to respond rapidly if major new actions are
20 necessary to protect and recover salmon and
21 steelhead in the Columbia and Snake River basin.

22 **SEC. 3. PEER REVIEW OF NMFS BIOLOGICAL OPINION.**

23 (a) IN GENERAL.—Not later than 6 months after the
24 date of enactment of this Act, the Secretary of Commerce
25 shall enter into an arrangement with the National Acad-

1 emy of Sciences providing for peer review of the NMFS
2 biological opinion and submission of a report on the re-
3 sults of the peer review in accordance with subsection (c).

4 (b) CONTENTS.—For purposes of this section, peer
5 review shall include, at a minimum, the following:

6 (1) Review of performance standards in the
7 NMFS biological opinion.

8 (2) Review of any recovery standards estab-
9 lished by the National Marine Fisheries Service pur-
10 suant to the NMFS biological opinion for each listed
11 salmon and steelhead population.

12 (3) Review of the effectiveness of the implemen-
13 tation plans required by the NMFS biological opin-
14 ion and the appropriateness of the timelines for im-
15 plementing such plans.

16 (4) Review of the NMFS biological opinion and
17 its analyses and conclusions and review of any fu-
18 ture analyses required by the NMFS biological opin-
19 ion.

20 (c) REPORT.—Not later than 12 months after the
21 date of enactment of this Act, the National Academy of
22 Sciences shall submit to the Secretary of Commerce, the
23 Secretary of the Army, the Secretary of the Interior, and
24 the Administrator of the Environmental Protection Agen-

1 cy a report on the results of the peer review conducted
2 under this section.

3 (d) DETERMINATION OF SUFFICIENCY.—Not later
4 than December 31, 2003, the Secretary of Commerce shall
5 publish—

6 (1) a determination of whether implementation
7 of the salmon recovery measures in the NMFS bio-
8 logical opinion are sufficient to achieve recovery, as
9 defined under the Endangered Species Act of 1973
10 (16 U.S.C. 1531 et seq.), of the salmon and
11 steelhead populations that are the subject of the bio-
12 logical opinion; and

13 (2) if the determination under paragraph (1) is
14 that such measures are not sufficient to achieve such
15 recovery, a determination of whether partially re-
16 moving the 4 lower Snake River dams is necessary
17 to restore Snake River salmon and steelhead popu-
18 lations to meet obligations under such Act.

19 (e) DETERMINATION OF NECESSITY TO MEET TREA-
20 TY OBLIGATIONS.—Not later than December 31, 2003,
21 the Secretary of the Interior shall publish a determination
22 of whether partially removing the 4 lower Snake River
23 dams is necessary to meet treaty obligations to Indian
24 tribes or other sovereign nations.

1 (f) DETERMINATION OF NECESSITY TO MEET
2 CLEAN WATER REQUIREMENTS.—Not later than Decem-
3 ber 31, 2003, the Administrator of the Environmental
4 Protection Agency shall publish a determination of wheth-
5 er partially removing the 4 lower Snake River dams is nec-
6 essary to meet the requirements of the Federal Water Pol-
7 lution Control Act (33 U.S.C. 1251 et seq.).

8 **SEC. 4. GAO STUDY OF PARTIAL REMOVAL OF LOWER**
9 **SNAKE RIVER DAMS.**

10 (a) IN GENERAL.—The Comptroller General of the
11 United States shall conduct a study of the potential effects
12 of partially removing the 4 lower Snake River dams.

13 (b) CONTENTS.—The study shall include examination
14 of and recommendation for addressing, at a minimum, the
15 following:

16 (1) The economic effects of partial dam removal
17 for local communities and for downstream and coast-
18 al communities, including downstream and coastal
19 communities located within the boundaries of Alaska
20 and Canada, including employment gains or losses
21 that would result from dam removal.

22 (2) The effects of partial dam removal on trans-
23 portation by water, including—

1 (A) the feasibility, costs, and sufficiency of
2 alternative transportation by railroad, highway,
3 and other means;

4 (B) the economic benefits and costs of
5 such alternatives;

6 (C) the environmental impact of shifting to
7 such alternatives;

8 (D) the means for mitigating any environ-
9 mental harm that might be caused by the use
10 of such alternatives; and

11 (E) any development or expansion of such
12 alternatives that would be required to continue
13 moving the same amount of cargo that is cur-
14 rently transported by water.

15 (3) The effects of partial dam removal on irri-
16 gation, including the availability of or need for alter-
17 natives to replace irrigation water or to extend irri-
18 gation pumps.

19 (4) The effects of partial dam removal on en-
20 ergy production, including the regional effects of any
21 changes in energy production, identification of alter-
22 native energy sources that could replace any loss in
23 energy production, and the benefits and costs of
24 such alternatives.

1 (5) The effects, including economic effects, of
2 the extinction of salmon and steelhead populations
3 in the Snake River.

4 (c) REPORT.—Not later than 18 months after the
5 date of enactment of this Act, the Comptroller General
6 shall submit to each of the Secretary of the Army, the
7 Secretary of Commerce, and the Administrator of the En-
8 vironmental Protection Agency a report on the results of
9 the study conducted under this section.

10 **SEC. 5. AUTHORIZATION AND PLANNING OF SALMON RE-**
11 **COVERY.**

12 (a) PARTIAL DAM REMOVAL AUTHORIZATION.—The
13 Secretary of the Army, acting through the Corps of Engi-
14 neers, is authorized to partially remove the 4 lower Snake
15 River dams if—

16 (1) the Secretary of Commerce finds that such
17 action is necessary to restore Snake River salmon
18 and steelhead populations to meet obligations under
19 the Endangered Species Act of 1973 (33 U.S.C.
20 1531 et seq.);

21 (2) the Secretary of the Interior finds that such
22 action is necessary to meet treaty obligations to In-
23 dian tribes or other sovereign nations; or

24 (3) the Administrator of the Environmental
25 Protection Agency finds that such action is nec-

1 essary to meet requirements of the Federal Water
2 Pollution Control Act (33 U.S.C. 1251 et seq.).

3 (b) PRELIMINARY PLANNING WORK.—The Secretary
4 of the Army shall undertake such preliminary engineering,
5 design, construction, and other activities as may be nec-
6 essary to remove the 4 lower Snake River dams pursuant
7 to subsection (a). This work shall be completed by Decem-
8 ber 31, 2003.

9 (c) FUNDING.—There is authorized to be appro-
10 priated to the Secretary of the Army \$4,000,000 for fiscal
11 year beginning after September 30, 2001, to carry out this
12 section. Such sums shall remain available until expended.

13 **SEC. 6. DEFINITIONS.**

14 In this Act, the following definitions apply:

15 (1) LOWER SNAKE RIVER DAMS.—The term “4
16 lower Snake River dams” means the following dams
17 on the Snake River, Washington:

18 (A) The Ice Harbor dam.

19 (B) The Lower Monumental dam.

20 (C) The Little Goose dam.

21 (D) The Lower Granite dam.

22 (2) NMFS BIOLOGICAL OPINION.—The term
23 “NMFS biological opinion” means the biological
24 opinion of the National Marine Fisheries Service re-
25 garding the Operation of the Federal Columbia

1 River power system, issued on December 21, 2000,
2 and any subsequent modification of, or substitute
3 for, that biological opinion.

4 (3) POPULATIONS.—The term “populations”
5 means the 12 evolutionarily significant units of
6 salmon and steelhead listed in the Columbia and
7 Snake River basin that are the subject of the NMFS
8 biological opinion.

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