

116TH CONGRESS  
1ST SESSION

# H. R. 4723

To require the identification of salmon conservation areas, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2019

Mr. HUFFMAN introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture, and Foreign Affairs, 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

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## A BILL

To require the identification of salmon conservation areas,  
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 Focused In-  
5 vestments in Sustainable Habitats Act of 2019” or the  
6 “Fish Act of 2019”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1           (1) Pacific and Atlantic salmon are important  
2 for food, culture, ecology, and the economy.

3           (2) Salmon are especially important to Indian  
4 Tribes, many of which consider salmon to be sacred  
5 and central to their culture, ceremonies, and subsist-  
6 ence.

7           (3) Such Indian Tribes have significant leader-  
8 ship and expertise with respect to salmon.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11           (1) SALMON CONSERVATION AREA.—The term  
12 “salmon conservation area” means a watershed, a  
13 portion of a watershed, multiple watersheds, or other  
14 defined spatial units that—

15                   (A) is identified under section 4(b);

16                   (B) meets the biological criteria (as identi-  
17 fied by the Administrator of the National Ocea-  
18 nic and Atmospheric Administration and the  
19 Director of the Fish and Wildlife Service in co-  
20 ordination with the relevant Federal agency  
21 with jurisdiction over such salmon conservation  
22 area) for abundance, productivity, diversity (ge-  
23 netic and life history), habitat quality, or other  
24 biological attributes important to sustaining

1 viable populations of salmon throughout their  
2 range; or

3 (C) a watershed that is regionally signifi-  
4 cant for the conservation of salmon.

5 (2) SALMON STRONGHOLD.—The term “salmon  
6 stronghold” means a salmon conservation area that  
7 has relatively high anadromous salmonid abundance,  
8 productivity, and diversity (life history and run tim-  
9 ing), as well as habitat quality or other biological at-  
10 tributes important to sustaining viable populations  
11 of wild salmon throughout their range. The term  
12 stronghold can be applied to a watershed, multiple  
13 watersheds, or other defined spatial units where pop-  
14 ulations are strong and diverse, and habitats have a  
15 high intrinsic potential to support a particular spe-  
16 cies or suite of species.

17 (3) RELEVANT FEDERAL AGENCY.—The term  
18 “relevant Federal agency” means—

19 (A) the Forest Service;

20 (B) the Bureau of Land Management;

21 (C) the National Park Service;

22 (D) the National Oceanic Atmospheric Ad-  
23 ministration; and

24 (E) the Fish and Wildlife Service.

1 **SEC. 4. IDENTIFICATION OF SALMON CONSERVATION**  
2 **AREAS.**

3 (a) GUIDANCE.—Not later than 60 days after the  
4 date of the enactment of this Act, the Administrator of  
5 the National Oceanic and Atmospheric Administration  
6 and the Director of the Fish and Wildlife Service shall  
7 jointly issue guidance on the process and biological criteria  
8 required to identify salmon conservation areas.

9 (b) PUBLICATION.—

10 (1) IN GENERAL.—Not later than 180 days  
11 after the date of the enactment of this Act, the Ad-  
12 ministrator of the National Oceanic and Atmos-  
13 pheric Administration and the Director of the Fish  
14 and Wildlife Service, in cooperation with relevant  
15 Federal agencies shall publish a list of salmon con-  
16 servation areas.

17 (2) REVISION.—The Administrator of the Na-  
18 tional Oceanic and Atmospheric Administration and  
19 the Director of the Fish and Wildlife Service, in co-  
20 operation with each relevant Federal agency shall re-  
21 vise the list under paragraph (1) in accordance with  
22 subsection (d).

23 (c) CONSULTATION.—In identifying salmon conserva-  
24 tion areas under subsection (b), the Administrator of the  
25 National Oceanic and Atmospheric Administration and

1 the Director of the Fish and Wildlife Service, in coopera-  
2 tion with each relevant Federal agency—

3 (1) shall consult with—

4 (A) the State in which such a salmon con-  
5 servation area is located; and

6 (B) Indian Tribes that have land, fishing  
7 rights, or cultural ties to the area in which the  
8 salmon conservation area is located; and

9 (2) may consult with—

10 (A) nongovernmental organizations;

11 (B) non-Federal scientists; and

12 (C) members of the public.

13 (d) OTHER IDENTIFICATION.—

14 (1) IN GENERAL.—Not later than 90 days after  
15 the date described in subsection (b), an entity de-  
16 scribed in subsection (c) may nominate to the Ad-  
17 ministrator of the National Oceanic and Atmos-  
18 pheric Administration and the Director of the Fish  
19 and Wildlife Service a salmon conservation area for  
20 identification under subsection (b).

21 (2) REVIEW.—In the case of a nomination de-  
22 scribed in paragraph (1), not later than 180 days  
23 after receiving such nomination, the Administrator  
24 of the National Oceanic and Atmospheric Adminis-  
25 tration and the Director of the Fish and Wildlife

1 Service shall jointly determine if the watershed nom-  
2 inated is a salmon conservation area.

3 (e) WATERSHED MANAGEMENT AND RESTORATION  
4 IDENTIFICATION.—The Administrator of the National  
5 Oceanic and Atmospheric Administration and the Director  
6 of the Fish and Wildlife Service, in cooperation with the  
7 Secretary of Agriculture shall use watershed evaluations  
8 conducted under the Watershed Condition Framework  
9 under section 304 of the Healthy Forests Restoration Act  
10 of 2003 (16 U.S.C. 6543) and analyses associated with  
11 the identification of Conservation Watersheds to support  
12 an identification of a salmon conservation area under this  
13 section.

14 (f) ESSENTIAL FISH HABITAT.—The Administrator  
15 of the National Oceanic and Atmospheric Administration  
16 and the Director of the Fish and Wildlife Service shall  
17 use the analyses conducted by the Administrator under  
18 section 305(b) of the Magnuson-Stevens Fishery Con-  
19 servation and Management Act (16 U.S.C. 1855(b)) to  
20 identify, map, and designate essential fish habitat to sup-  
21 port the identification of salmon conservation areas under  
22 this section.

23 **SEC. 5. EFFECT OF IDENTIFICATION.**

24 (a) PRIORITY FOR FOREST ROAD DECOMMISS-  
25 SIONING.—The Secretary of Agriculture shall give priority

1 to forest road decommissioning (as defined in section  
2 212.1 of title 36, Code of Federal Regulations) and fish  
3 passage projects within a salmon conservation area.

4 (b) LEAST ADVERSE IMPACT.—Notwithstanding any  
5 other provision of law, to satisfy the requirements of sec-  
6 tion 102(C)(iii) of the National Environmental Policy Act  
7 of 1969 (42 U.S.C. 4332(C)(iii)), any Federal action car-  
8 ried out with respect to a salmon conservation area identi-  
9 fied under section 4 shall be the action that has the least  
10 adverse impact on such salmon conservation areas.

11 (c) TRANSBOUNDARY POLLUTION.—

12 (1) NOTIFICATION OF SECRETARY OF STATE.—

13 If any salmon conservation area is determined by a  
14 Federal agency to be negatively impacted by trans-  
15 boundary pollution or other international actions  
16 originating in Canada, the head of the Federal agen-  
17 cy shall notify the Secretary of State.

18 (2) ACTION REQUIRED.—Not later than 30  
19 days after receiving a notification under paragraph  
20 (1), the Secretary of State shall consult with rep-  
21 resentatives from Canada to resolve the issue for  
22 which the Secretary was notified under such para-  
23 graph.

24 (3) REFERRAL TO IJC.—If the issue for which  
25 the Secretary of State was notified under paragraph

1 (1) is not resolved on a date that is 6 months after  
2 the date of notification under such paragraph—

3 (A) the Secretary shall request to submit a  
4 joint referral to the International Joint Com-  
5 mission with Canada to research and provide  
6 recommendations to resolve such issue; and

7 (B) if a joint referral under subparagraph  
8 (A) is not submitted, the Secretary shall refer  
9 such issue to the International Joint Commis-  
10 sion.

11 **SEC. 6. WATERSHED MANAGEMENT AND RESTORATION**  
12 **PROGRAM.**

13 Section 304 of the Healthy Forests Restoration Act  
14 of 2003 (16 U.S.C. 6543) is amended by adding at the  
15 end the following:

16 “(d) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) IN GENERAL.—There is authorized to be  
18 appropriated to carry out this section and the pur-  
19 pose described in paragraph (2), \$40,000,000 for  
20 fiscal year 2020 and each of the 4 fiscal years there-  
21 after.

22 “(2) CONSERVATION WATERSHEDS PROGRAM.—

23 The Secretary shall use a portion of the funds ap-  
24 propriated pursuant to paragraph (1) to carry out

1 the conservation watersheds program of the Depart-  
2 ment of Agriculture.

3 “(3) ADDITIONAL WATERSHED PERMISSIBLE.—  
4 Notwithstanding any other provision of this section,  
5 the Secretary may use funds appropriated under this  
6 subsection to identify additional priority watersheds  
7 in each National Forest if such watersheds, or por-  
8 tions of, are determined by the Secretary to be salm-  
9 on conservation areas (as defined in section 3 of the  
10 Fish Act of 2019).”.

11 **SEC. 7. GRANT PROGRAM.**

12 (a) AUTHORIZATION.—

13 (1) IN GENERAL.—The National Fish and  
14 Wildlife Foundation shall carry out a grant pro-  
15 gram, to be known as the “Salmon Conservation  
16 Area Grant Program”, to make grants to carry out  
17 the purposes described in subsection (b).

18 (2) DURATION.—A grant under this section  
19 shall have a duration of not more than 5 years.

20 (3) PRIORITY.—In making grants under this  
21 section, the National Fish and Wildlife Foundation  
22 shall give priority to an eligible entity that dem-  
23 onstrates that the eligible entity—

24 (A) will carry out a project under this sec-  
25 tion on a salmon stronghold;

1 (B) has considered the durability of the  
2 project and how the project contributes to the  
3 long-term conservation of salmon;

4 (C) has coordinated with other stake-  
5 holders to carry out the project; and

6 (D) has considered how the project will  
7 work with other salmon restoration projects.

8 (4) MATCHING REQUIREMENT.—Except in the  
9 case of an eligible entity that is an Indian Tribe,  
10 each eligible entity that receives a grant under this  
11 section shall provide, in cash or through in-kind con-  
12 tributions from non-Federal sources, matching funds  
13 to carry out the activities funded by the grant in an  
14 amount equal to not less than 25 percent of the cost  
15 of the activities.

16 (b) PURPOSES.—The purposes of the grants under  
17 this section are—

18 (1) to protect or maintain salmon conservation  
19 area features and projects that are focused on con-  
20 servation and restoration within conservation areas;  
21 and

22 (2) to carry out at least one of the following:

23 (A) To address factors threatening to limit  
24 abundance, productivity, diversity, habitat qual-

1           ity, or other biological attributes important to  
2           sustaining viable salmon populations.

3           (B) To restore or maintain ecological func-  
4           tions and processes related to salmon produc-  
5           tivity and diversity at watershed or subwater-  
6           shed scales.

7           (C) To improve the resilience of salmon  
8           populations in response to acute events such as  
9           fires, landslides, and earthquakes.

10          (D) To improve the resilience of salmon  
11          populations to climate change and prepare pop-  
12          ulations for other future changes.

13          (E) To provide co-benefits to fish and wild-  
14          life, in particular where salmon can be used as  
15          indicator species for habitat quality.

16          (F) To implement focused, prioritized pro-  
17          tection and restoration in watersheds.

18          (G) To improve conservation area resil-  
19          ience both downstream and upstream.

20          (c) APPLICATIONS.—To be eligible to receive a grant  
21          under this section, an eligible entity shall submit an appli-  
22          cation to the National Fish and Wildlife Foundation at  
23          such time, in such manner, and containing such informa-  
24          tion as the Foundation may require.

1 (d) ELIGIBLE ENTITY DEFINED.—In this section,  
2 the term “eligible entity” means an Indian Tribe, non-  
3 governmental organization, State or local agency, or insti-  
4 tution of higher education (as defined in section 101 of  
5 the Higher Education Act of 1965 (20 U.S.C. 1001)) that  
6 has approval to carry out a project with respect to a salm-  
7 on conservation area under this section from the relevant  
8 Federal agency that has jurisdiction over such salmon con-  
9 servation area.

10 (e) USE OF FUNDS.—

11 (1) IN GENERAL.—An eligible entity that re-  
12 ceives a grant under this section shall use the grant  
13 funds to carry out activities consistent with the pur-  
14 poses described in subsection (b), which include—

15 (A) subject to subsection (f), land acquisi-  
16 tion, conservation easements, and land ex-  
17 changes;

18 (B) purchasing mining rights;

19 (C) the improvement of fish passages and  
20 removal of fish passage barriers and dams;

21 (D) habitat restoration and rehabilitation;

22 (E) outreach and local engagement;

23 (F) purchasing water rights related to  
24 leasing, consumption, and use;

1 (G) groundwater recharge projects (includ-  
2 ing ponds and forbearance);

3 (H) water efficiency projects;

4 (I) regional planning or development of a  
5 focused, prioritized protection and restoration  
6 action plan for the watershed; or

7 (J) monitoring and research, including  
8 monitoring the status of salmon populations in  
9 watersheds within conservation areas before and  
10 after the removal of a dam.

11 (2) PROHIBITION.—None of the funds made  
12 available under this section may be used to carry out  
13 litigation.

14 (f) ACQUISITION AND TRANSFER OF REAL PROP-  
15 erty INTERESTS.—

16 (1) USE OF REAL PROPERTY.—No project that  
17 will result in the acquisition by a relevant Federal  
18 agency or eligible entity of interest in land, in whole  
19 or in part, may receive funds under this section un-  
20 less the project is consistent with the purposes of  
21 this section.

22 (2) PRIVATE PROPERTY PROTECTION.—No  
23 Federal funds made available to carry out this sec-  
24 tion may be used to acquire any real property or any  
25 interest in any real property without the written

1 consent of each owner of the property or interest in  
2 property.

3 (3) TRANSFER OF REAL PROPERTY.—No land  
4 or interest in land, acquired in whole or in part by  
5 a relevant Federal agency or eligible entity with  
6 funds made available under this section to carry out  
7 a salmon conservation area conservation project may  
8 be transferred to a State, other public agency, or  
9 other entity unless—

10 (A) the Administrator of the National Oce-  
11 anic and Atmospheric Administration, the Na-  
12 tional Fish and Wildlife Foundation, and the  
13 relevant Federal agency with jurisdiction over  
14 such land determines that the State, agency, or  
15 entity is committed to manage, in accordance  
16 with this section and the purposes of this sec-  
17 tion, the property being transferred; and

18 (B) the deed or other instrument of trans-  
19 fer contains provisions for the reversion of the  
20 title to the property to the United States if the  
21 State, agency, or entity fails to manage the  
22 property as a salmon conservation area in ac-  
23 cordance with this section and the purposes of  
24 this section.

1           (4) REQUIREMENT.—Any real property interest  
2           conveyed under paragraph (3) shall be subject to  
3           such terms and conditions as will ensure, to the  
4           maximum extent practicable, that the interest will be  
5           administered in accordance with this section and the  
6           purposes of this section.

7           (g) REPORTS.—Not later than 5 years after the on  
8           which the first grant is made under this section, the Na-  
9           tional Fish and Wildlife Foundation shall submit a report  
10          to the Committee on Commerce, Science, and Transpor-  
11          tation of the Senate and the Committee on Natural Re-  
12          sources of the House of Representatives that includes—

13               (1) an evaluation of the results of each projects  
14               with recommendation on strategies and approaches  
15               focusing on salmon conservation actions projected to  
16               have the greatest positive impacts on abundance,  
17               productivity, or diversity in salmon conservation  
18               areas;

19               (2) conclusions and recommendations on appro-  
20               priate metrics to measure and evaluate the efficacy  
21               of salmon conservation efforts, including key indica-  
22               tors for habitat and aquatic health and recommenda-  
23               tions on quantifying such benefits;

1           (3) status and trends for wild salmon abun-  
2           dance, diversity, and productivity in each salmon  
3           conservation area; and

4           (4) social and economic effects resulting from  
5           salmon conservation area conservation; assessment  
6           of threats imposed by changing ocean conditions on  
7           marine survival.

8           (h) APPROPRIATIONS.—There is authorized to be ap-  
9           propriated to carry out this section \$30,000,000 for fiscal  
10          year 2020 and each of the 4 fiscal years thereafter.

11 **SEC. 8. LIMITATIONS.**

12          Nothing in this Act, and no action to implement this  
13          Act, may be construed—

14               (1) to create a reserved water right, express or  
15               implied, in the United States for any purpose, or af-  
16               fect the management or priority of water rights  
17               under State law;

18               (2) to affect existing water rights under Federal  
19               or State law;

20               (3) to affect any Federal or State law in exist-  
21               ence on the date of enactment of this Act regarding  
22               water quality or water quantity;

23               (4) to abrogate, abridge, affect, modify, super-  
24               sede, or otherwise alter any right of a federally rec-

1       ognized Indian Tribe under any applicable treaty, or  
2       Federal or tribal law or regulation; or

3               (5) to diminish or affect the ability of the head  
4       of a relevant Federal agency to join the adjudication  
5       of rights to the use of water pursuant to subsection  
6       (a), (b), or (c) of section 208 of the Department of  
7       Justice Appropriation Act, 1953 (43 U.S.C. 666).

○