Public Law 99-552
99th Congress

An Act

Oct. 27, 1986
[H.R. 4712]

To provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 460ss.

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Klamath and Trinity Rivers have been placed under the California and National Wild and Scenic Rivers Systems to protect their outstanding anadromous fishery values;

(2) the Klamath and Trinity Rivers provide fishery resources necessary for Indian subsistence and ceremonial purposes, ocean commercial harvest, recreational fishing, and the economic health of many local communities;

(3) floods, the construction and operation of dams, diversions and hydroelectric projects, past mining, timber harvest practices, and roadbuilding have all contributed to sedimentation, reduced flows, and degraded water quality which has significantly reduced the anadromous fish habitat in the Klamath-Trinity River System;

(4) overlapping Federal, State, and local jurisdictions, inadequate enforcement of fishery harvest regulations, and ineffective fishery management have historically hampered fishery conservation efforts and prevented the Federal Government and the State of California from fulfilling their responsibilities to protect the rivers' anadromous fishery values;

(5) the Klamath-Trinity fall chinook salmon populations have declined by 80 percent from historic levels and steelhead trout have also undergone significant reductions;

(6) Klamath River Basin Fisheries Resource Plan has been developed by the Secretary acting through the Bureau of Indian Affairs;

(7) the Klamath Salmon Management Group, a group of agencies with fishery management responsibility, has established, in cooperation with the users of the Klamath-Trinity River Basin fishery resources, a sound framework for the future coordination of fishery harvest management;

(8) a new Klamath-Trinity River Basin Management authority, composed of the Klamath Salmon Management Group and representatives of users of the fishery resources of the Klamath-Trinity River Basin, is needed to ensure more effective long-term coordination of the Klamath-Trinity River fisheries under sound conservation and management principles that ensure adequate spawning escapement; and

(9) the Secretary has the authority to implement a restoration program only in the Trinity River Basin and needs additional authority to implement a restoration program in cooperation with State and local governments to restore anadromous fish

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populations to optimum levels in both the Klamath and Trinity River Basins;

SEC. 2. KLAMATH RIVER BASIN CONSERVATION AREA; FISHERY RESOURCES RESTORATION PROGRAM. 16 USC 460ss-1.

(a) ESTABLISHMENT OF KLAMATH RIVER BASIN CONSERVATION AREA.—The Secretary shall designate the anadromous fish habitats and resources of the Klamath River basin as the Klamath River Basin Conservation Area (hereafter in this Act referred to as the "Area").

(b) KLAMATH RIVER BASIN CONSERVATION AREA RESTORATION PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall, in consultation with the task force established under section 4, formulate, establish, and implement a 20-year program to restore the anadromous fish populations of the Area to optimum levels and to maintain such levels. The program shall be based on the Klamath River Basin Fisheries Resource Plan referred to in section 1(6) and shall be known as the Klamath River Basin Conservation Area Restoration Program.

(2) PROGRAM ACTIVITIES.—In carrying out the objectives of the program, the Secretary, in cooperation with the task force established under section 4, shall—

(A) monitor and coordinate research evaluating the Area anadromous fish populations and administer and evaluate the success of activities described in subparagraph (B); and Research and development.

(B) take such actions as are necessary to—

(i) improve and restore Area habitats, and to promote access to blocked Area habitats, to support increased run sizes;

(ii) rehabilitate problem watersheds in the Area to reduce negative impacts on fish and fish habitats;

(iii) improve existing Area hatcheries and rearing ponds to assist in rebuilding the natural populations;

(iv) implement an intensive, short-term stocking program to rebuild run sizes while maintaining the genetic integrity and diversity of Area subbasin stocks; and

(v) improve upstream and downstream migration by removal of obstacles to fish passage and the provision of facilities for avoiding obstacles.

(3) RESTORATION WORK.—To the extent practicable, any restoration work performed under paragraph (2)(B) shall be performed by unemployed— Indians.

(A) commercial fishermen;

(B) Indians; and

(C) other persons whose livelihood depends upon Area fishery resources.

(4) MEMORANDUM OF AGREEMENT.—In order to facilitate the implementation of any activity described in paragraph (2) over which the Secretary does not have jurisdiction, the Secretary shall enter into a memorandum of agreement with the Federal, State, and local agencies having jurisdiction over such activities, and the Area Indian tribes. The memorandum of agreement shall specify the program activities for which the respective signatories to the agreement are responsible and shall contain such provisions as are necessary to ensure the coordinated implementation of the program. Contracts. State and local governments. Indians.

16 USC 460ss-2.

SEC. 3. KLAMATH FISHERY MANAGEMENT COUNCIL.

(a) ESTABLISHMENT.—There is established a Klamath Fishery Management Council (hereafter in this Act referred to as the "Council").

(b) FUNCTIONS.—

(1) The Council shall—

(A) establish a comprehensive long-term plan and policy, that must be consistent with the goals of the program, for the management of the in-river and ocean harvesting that affects or may affect Klamath and Trinity River basin anadromous fish populations;

(B) make recommendations, that must be consistent with the plan and policy established under subparagraph (A) and with the standards in paragraph (2)—

(i) to the California Fish and Game Commission regarding in-river and offshore recreational harvesting regulations,

(ii) to the Oregon Department of Fish and Wildlife regarding offshore recreational harvesting regulations,

(iii) to the Pacific Fishery Management Council regarding ocean harvesting regulations,

(iv) to the Bureau of Indian Affairs regarding regulations for harvesting in the Area by non-Hoopa Indians, and

(v) to the Hoopa Valley Business Council regarding regulations for harvesting in the Area by members of the Hoopa Indian Tribe; and

(C) conduct public hearings on any regulation referred to in subparagraph (B) (i) through (v).

(2) Any recommendation made by the Council under paragraph (1)(B) regarding harvesting regulations shall—

(A) be based upon the best scientific information available;

(B) minimize costs where practicable, and avoid unnecessary duplication of regulations;

(C) take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(D) be designed to achieve an escapement that preserves and strengthens the viability of the Area's natural anadromous fish populations.

(c) MEMBERSHIP AND APPOINTMENT.—The Council is composed of 11 members as follows:

(1) A representative, who shall be appointed by the Governor of California, of each of the following:

(A) The commercial salmon fishing industry.

(B) The in-river sportfishing community.

(C) The offshore recreational fishing industry.

(D) The California Department of Fish and Game.

(2) A representative of the Hoopa Indian Tribe who shall be appointed by Hoopa Valley Business Council.

(3) A representative, who shall be appointed by the Secretary, of each of the following:

(A) The non-Hoopa Indians residing in the Area.

(B) The Department of the Interior.

(4) A representative, who shall be appointed by the Secretary of Commerce, of each of the following—

(A) The National Marine Fisheries Service.

(B) The Pacific Fishery Management Council.

(5) A representative, who shall be appointed by the Governor of Oregon, of each of the following:

(A) The commercial salmon fishing industry.

(B) The Oregon Department of Fish and Wildlife.

(d) CONSULTATION REQUIREMENT.—The appointments required under subsection (c) shall be made in consultation with the appropriate users of Area anadromous fish resources.

(e) QUALIFICATIONS.—Council members shall be individuals who are knowledgable and experienced in the management and conservation, or the recreational or commercial harvest, of the anadromous fish resources in Northern California.

(f) TERMS.—

(1) IN GENERAL.—The term of a member is 4 years.

(2) SERVICE.—Members of the Council serve at the pleasure of the appointing authority.

(3) VACANCIES.—Any vacancy on the Council shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(g) TRANSACTION OF BUSINESS.—

(1) DECISIONS OF COUNCIL.—All decisions of the Council must be by unanimous vote of all of the members.

(2) CHAIRMAN.—The Council shall elect a Chairman from among its members.

(3) MEETINGS.—The Council shall meet at the call of the Chairman or upon the request of a majority of its members.

(h) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATIVE SUPPORT.—The Secretary and the Director of the California Department of Fish and Game shall provide the Council with such administrative and technical support services as are necessary for the effective functioning of the Council.

(2) INFORMATION.—The Secretary and the Director of the California Department of Fish and Game shall furnish the Council with relevant information concerning the Area.

(3) ORGANIZATION.—The Council shall determine its organization, and prescribe the practices and procedures for carrying out its functions under subsection (b).

(i) FEDERAL OR STATE EMPLOYEES.—Any Council member who is an officer or employee of the United States or the State of California at the time of appointment to the Council shall cease to be a Council member within 14 days after the date on which he ceases to be so employed.

(j) EXPENSES.—

(1) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Council, Council members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the

Government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(2) LIMITATION ON SPENDING AUTHORITY.—No money authorized to be appropriated under section 6 may be used to reimburse any agency or governmental unit (whose employees are Council members) for time spent by any such employee performing Council duties.

16 USC 460ss-3.

SEC. 4. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) ESTABLISHMENT.—There is established a Klamath River Basin Fisheries Task Force (hereafter in this Act referred to as the "Task Force").

(b) FUNCTIONS.—The Task Force—

(1) shall assist the Secretary in the formulation, coordination, and implementation of the program;

(2) shall assist, and coordinate its activities with, Federal, State, and local governmental or private anadromous fish restoration projects within the Area;

(3) shall conduct any other activity that is necessary to accomplish the objectives of the program; and

(4) may act as an advisor to the Council.

(c) MEMBERSHIP AND APPOINTMENT.—The Task Force is composed of 12 members as follows:

(1) A representative, who shall be appointed by the Governor of California, of each of the following:

(A) The commercial salmon fishing industry.

(B) The in-river sport fishing community.

(C) The California Department of Fish and Game.

(2) A representative of the Hoopa Indian Tribe who shall be appointed by the Hoopa Valley Business Council.

(3) A representative of the Department of the Interior who shall be appointed by the Secretary.

(4) A representative of the National Marine Fisheries Service who shall be appointed by the Secretary of Commerce.

(5) A representative of the Department of Agriculture who shall be appointed by the Secretary of Agriculture.

(6) A representative of the Oregon Department of Fish and Wildlife who shall be appointed by the Governor of Oregon.

(7) One individual who shall be appointed by the Board of Supervisors of Del Norte County, California.

(8) One individual who shall be appointed by the Board of Supervisors of Siskiyou County, California.

(9) One individual who shall be appointed by the Board of Supervisors of Humboldt County, California.

(10) One individual who shall be appointed by the Board of Supervisors of Trinity County, California.

(d) COUNCIL MEMBERSHIP NOT A BAR TO TASK FORCE APPOINTMENT.—An individual who is a member of the Council is not ineligible for appointment as a member of the Task Force.

(e) TERMS.—

(1) IN GENERAL.—The term of a member of the Task Force is 4 years.

(2) SERVICE.—Members of the Task Force serve at the pleasure of the appointing authorities.

(3) VACANCIES.—Any vacancy on the Task Force shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the

expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(f) TRANSACTION OF BUSINESS.—

(1) DECISIONS OF TASK FORCE.—All decisions of the Task Force must be by unanimous vote of all the members.

(2) CHAIRMAN.—The members of the Task Force shall select a Chairman from among its members.

(3) MEETINGS.—The Task Force shall meet at the call of the Chairman or upon the request of a majority of its members.

(g) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATIVE SUPPORT.—The Secretary and the Director of the California Department of Fish and Game shall provide the Task Force with the administrative and technical support services necessary for the effective functioning of the Task Force.

(2) INFORMATION.—The Secretary and the Director of the California Department of Fish and Game shall furnish the members of the Task Force with relevant information concerning the Area.

(3) ORGANIZATION.—The Task Force shall determine its organization, and prescribe the practices and procedures for carrying out its functions under subsection (b).

(h) MEMBERS WHO ARE FEDERAL OR STATE EMPLOYEES.—Any Task Force member who is an officer or employee of the United States or the State of California at the time of appointment to the Task Force shall cease to be a member of the Task Force within 14 days of the date on which he ceases to be so employed.

(i) LIMITATION ON SPENDING AUTHORITY.—No money authorized to be appropriated under section 6 may be used to reimburse any Task Force member or agency or governmental unit (whose employees are Task Force members) for time spent by any such employee preforming Task Force duties.

SEC. 5. ENFORCEMENT.

Contracts. California. State and local governments. 16 USC 460ss-4.

(a) MEMORANDUM OF AGREEMENT.—In order to strengthen and facilitate the enforcement of Area fishery harvesting regulations, the Secretary shall enter into a memorandum of agreement with the California Department of Fish and Game. Such agreement shall specify the enforcement activities within the Area for which the respective agencies of the Department of Interior and the California Department of Fish and Game are responsible and shall contain such provisions as are necessary to ensure the coordinated implementation of Federal and State enforcement activities.

SEC. 6. APPROPRIATIONS.

16 USC 460ss-5.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior during the period beginning October 1, 1986, and ending on September 30, 2006, $21,000,000 for the design, construction, operation, and maintenance of the program. Monies appropriated under this subsection shall remain available until expended or October 1, 2006, whichever first occurs.

(b) COST-SHARING.—

(1) 50 percent of the cost of the development and implementation of the program must be provided by one or more non-Federal sources on a basis considered by the Secretary to be

timely and appropriate. For purposes of this subsection, the term "non-Federal source" includes a State or local government, any private entity, and any individual.

Gifts and property. Real property.

(2) In addition to cash outlays, the Secretary shall consider as financial contributions by a non-Federal source the value of in kind contributions and real and personal property provided by the source for purposes of implementing the program. Valuations made by the Secretary under this paragraph are final and not subject to judicial review.

Voluntarism.

(3) For purposes of paragraph (2), in kind contributions may be in the form of, but are not limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies.

Regulations.

(4) The Secretary shall by regulation establish—

(A) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in kind contributions; and

(B) the standards under which the Secretary will determine the value of in kind contributions and real and personal property for purposes of paragraph (2).

State and local governments.

(5) The Secretary may not consider the expenditure, either directly or indirectly, with respect to the program of Federal moneys received by a State or local government to be a financial contribution by a non-Federal source to carry out the program.

16 USC 460ss-6.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) The term "program" means the Klamath River Basin Conservation Area Restoration Program established under section 2(b).

(2) The term "Secretary" means the Secretary of the Interior.

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 4712:

HOUSE REPORTS: No. 99-894, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 30, considered and passed House.
Oct. 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 27, Presidential statement.