

108TH CONGRESS
2D SESSION

H. R. 4383

To ensure the continuation of successful fish mitigation programs.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2004

Mr. DEAL of Georgia (for himself and Mr. NORWOOD) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, 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 the continuation of successful fish mitigation programs.

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 “National Fishery Miti-
5 gation Coordination Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The operation of dams and other water di-
9 version projects are for the benefit of the American

1 public. The construction and operation of these Fed-
2 eral water resource development projects have had
3 impacts on many water systems and their respective
4 fish populations, resulting in the need to build and
5 operate fish hatcheries to mitigate for aquatic re-
6 sources affected by these projects.

7 (2) In accordance with the Fish and Wildlife
8 Act of 1956 (16 U.S.C. 742(a)–754), the Fish and
9 Wildlife Coordination Act (16 U.S.C. 661–667(e)),
10 the Watershed Protection and Flood Prevention Act
11 (16 U.S.C. 1001–1009), and the National Environ-
12 mental Policy Act (42 U.S.C. 4321–4347), the Serv-
13 ice has established policy (501 FW 2) to seek to
14 mitigate for fish, wildlife, and their habitats, and
15 uses thereof, from the effects of land and water de-
16 velopments.

17 (3) The United States Fish and Wildlife Service
18 currently operates nearly 40 fish hatcheries that are
19 involved in mitigation fishery activities related to
20 construction and operation of Federal water resource
21 development projects.

22 (4) Mitigation fishery activities conducted by
23 the Service at these facilities are highly valued by
24 the State and Indian tribal partners, and the fishing
25 community.

1 (5) Inconsistency in authorities, which now
2 number over 200, to construct and operate Federal
3 water resource development projects have led to
4 myriad mechanisms for funding and conducting Fed-
5 eral mitigation fishery activities. In most cases Fed-
6 eral water project sponsors fund mitigation fishery
7 costs. In some cases the Service expends its appro-
8 priations to offset mitigation fishery costs.

9 (6) The Service is the Federal agency through
10 which a sponsor agency will negotiate to provide
11 goods and services to augment fisheries to com-
12 pensate for the impact of Federal water development
13 projects on aquatic resources.

14 (7) The sponsor agency should bear the finan-
15 cial responsibility for mitigation fishery costs in-
16 curred by the Service.

17 **SEC. 3. FISH HATCHERIES.**

18 A sponsor agency shall enter into an agreement with
19 the Service described in section 5 to pay the cost that fish
20 hatcheries that conduct mitigation activities incur, includ-
21 ing the following:

22 (1) Arizona—Willow Beach, National Fish
23 Hatchery.

24 (2) Arkansas—

1 (A) Greers Ferry, National Fish Hatchery;

2 and

3 (B) Norfolk, National Fish Hatchery.

4 (3) California—Tehama-Colusa Fish Facility.

5 (4) Colorado—Hotchkiss, National Fish Hatch-
6 ery.

7 (5) Georgia—Chattahoochee Forest, National
8 Fish Hatchery.

9 (6) Kentucky—Wolf Creek, National Fish
10 Hatchery.

11 (7) Missouri—Neosho, National Fish Hatchery.

12 (8) Montana—Ennis, National Fish Hatchery.

13 (9) Nevada—Lahontan, National Fish Hatch-
14 ery.

15 (10) North Dakota—

16 (A) Garrison Dam, National Fish Hatch-
17 ery; and

18 (B) Valley City, National Fish Hatchery.

19 (11) Oklahoma—Tishomingo, National Fish
20 Hatchery.

21 (12) South Dakota—Gavins Point, National
22 Fish Hatchery.

23 (13) Tennessee—

24 (A) Dale Hollow, National Fish Hatchery;
25 and

1 (B) Erwin, National Fish Hatchery.

2 (14) Utah—Jones Hole, National Fish Hatch-
3 ery.

4 (15) Wyoming—Jackson, National Fish Hatch-
5 ery.

6 **SEC. 4. DEFINITIONS.**

7 For this Act, the following definitions apply:

8 (1) SPONSOR AGENCY.—The term “sponsor
9 agency” means the United States Army Corps of
10 Engineers, the Bureau of Reclamation, or the Ten-
11 nessee Valley Authority.

12 (2) SERVICE.—The term “Service” means the
13 United States Fish and Wildlife Service.

14 (3) MITIGATION FISHERIES.—The term “miti-
15 gation fisheries” means fisheries augmented by
16 hatchery fish to compensate for the impacts of Fed-
17 eral water development projects on aquatic re-
18 sources.

19 (4) MITIGATION FISHERY ACTIVITIES.—The
20 term “mitigation fishery activities” means rearing
21 and stocking of native and nonnative fish to replace
22 or maintain harvest levels lost as a result of Federal
23 water resource development projects and includes
24 project planning and evaluation.

1 (5) MITIGATION FISHERY COSTS.—The term
2 “mitigation fishery costs” means the expenditures
3 necessary to operate, maintain, and rehabilitate fa-
4 cilities to conduct mitigation fishery activities, and
5 include: personnel, transportation, utilities, contrac-
6 tual services, fish feed, supplies, equipment, routine
7 maintenance, deferred maintenance, fish eggs, tech-
8 nical support, fish health, management and adminis-
9 tration, planning, and evaluation.

10 (6) MITIGATION FISHERY FACILITY.—The term
11 “mitigation fishery facility” means facilities owned
12 and operated by the United States Fish and Wildlife
13 Service through the National Fish Hatchery System
14 for the purpose, either wholly or in part, of con-
15 ducting mitigation fishery activities.

16 (7) FISHERY MITIGATION PLAN.—The term
17 “fishery mitigation plan” refers to a resource man-
18 agement plan developed between the United States
19 Fish and Wildlife Service and one or more sponsor
20 agencies, and in cooperation and coordination with
21 affected States and Indian Tribes, that describes the
22 long-term goals and annual targets for conducting
23 mitigation fishery activities. A fishery mitigation
24 plan shall be approved in advance by a sponsor
25 agency and the Service.

1 **SEC. 5. MITIGATION FISHERY COSTS.**

2 Not later than October 1, 2007, and each October
3 1st thereafter, a sponsor agency shall pay to the Service
4 the total amount of funds necessary to meet the mitigation
5 fishery costs to meet objectives described in the fishery
6 mitigation plan for a respective water development project.
7 The funds to be obligated for this purpose shall be identi-
8 fied in advance by the Director of the United States Fish
9 and Wildlife Service.

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