

111TH CONGRESS
1ST SESSION

H. R. 3503

To ensure that proper information gathering and planning are undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River Basin in a manner that protects and enhances local communities, ensures effective expenditure of Federal resources, and maintains reasonably priced, reliable power, to direct the Secretary of Commerce to seek scientific analysis of Federal efforts to restore salmon and steelhead listed under the Endangered Species Act of 1973, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. McDERMOTT (for himself, Mr. PETRI, Mr. BLUMENAUER, Mr. GEORGE MILLER of California, Mr. MARKEY of Massachusetts, Mr. MORAN of Virginia, Mr. CONYERS, Mr. GRIJALVA, Mrs. CAPPS, Mr. FARR, Mr. OLVER, Mr. STARK, Mr. SCHIFF, Mr. KENNEDY, Ms. DELAURO, Ms. LEE of California, Mr. NADLER of New York, Mr. HONDA, Mr. BERMAN, Ms. NORTON, Mr. WEXLER, Mr. PAYNE, Mr. KILDEE, Ms. ESHOO, and Mr. GORDON of Tennessee) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Natural Resources and Energy and Commerce, 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 information gathering and planning are undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River Basin in a manner that protects and enhances local communities, ensures effective expenditure of Federal resources,

and maintains reasonably priced, reliable power, to direct the Secretary of Commerce to seek scientific analysis of Federal efforts to restore 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 Solutions and
5 Planning Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds and declares the fol-
8 lowing:

9 (1) Certain species of wild salmon and
10 steelhead in the Columbia and Snake River Basin
11 are on the brink of extinction as a consequence of
12 various factors, including the construction and oper-
13 ation of hydroelectric projects, harvest management
14 practices, habitat degradation, altered in-stream flow
15 regimes, and unsound hatchery practices.

16 (2) These salmon and steelhead have major eco-
17 nomic, ecological, educational, recreational, sci-
18 entific, cultural, and spiritual significance to the Na-
19 tion and its people.

20 (3) Thirteen salmon and steelhead species in
21 the Columbia and Snake River Basin are listed for

1 protection under the Endangered Species Act of
2 1973 (16 U.S.C. 1531 et seq.).

3 (4) The Federal Government, including Bonne-
4 ville Power Administration's ratepayers in the Pa-
5 cific Northwest, has spent more than
6 \$8,000,000,000 on salmon recovery efforts in the
7 Columbia and Snake River Basin to date.

8 (5) Salmon and steelhead are symbols of the
9 Pacific Northwest, support thousands of jobs in
10 coastal and inland communities, and serve as an in-
11 dicator of the health of Northern California, Nevada,
12 Alaska, and Pacific Northwest river ecosystems.

13 (6) Salmon and steelhead of the Snake River
14 are a vital economic resource to communities in
15 Alaska, Washington, Oregon, Idaho, and California.
16 Restoring Snake River salmon to healthy, self-sus-
17 taining, harvestable levels will have significant eco-
18 nomic benefits for these communities as well as com-
19 munities in Nevada where these fish once returned.

20 (7) The original range of Snake River salmon
21 included not only their existing habitat in central
22 Idaho, northeast Oregon, southeast Washington, the
23 mid- and lower Columbia River, and the coastal wa-
24 ters of Alaska, California, Oregon, and Washington,
25 but also habitat in the upper Columbia River and

1 the upper Snake River Basin, including southern
2 Idaho, southeast Oregon, and northern Nevada.

3 (8) The United States Government has signed
4 treaties with Indian tribes in Oregon, Washington,
5 Montana, and Idaho and with the Government of
6 Canada creating a legally enforceable trust responsi-
7 bility to restore salmon populations to sustainable,
8 harvestable levels.

9 (9) Since the construction of 4 Federal dams on
10 the lower Snake River in Washington, salmon and
11 steelhead populations in the Snake River have sig-
12 nificantly declined, and all salmon and steelhead
13 populations in the Snake River are either already ex-
14 tinct or listed as endangered species or threatened
15 species under the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.).

17 (10) Recent studies indicate that the window of
18 time to protect and restore Snake River salmon and
19 steelhead is short, with scientists estimating that, if
20 changes do not occur, several of the remaining
21 Snake River salmon populations could be extinct
22 within the next 20 years.

23 (11) A federally funded group of State, tribal,
24 Federal, and independent scientists found that re-
25 moving the 4 lower Snake River dams in Wash-

1 ington is the surest way to protect and recover
2 Snake River salmon and steelhead. Similar conclu-
3 sions have been reached in studies by the Army
4 Corps of Engineers and the Department of Com-
5 merce. At the same time, it is well understood that
6 removing these dams is not a “silver bullet” for the
7 recovery of all salmon and steelhead populations in
8 the Columbia and Snake River Basin and other ac-
9 tions are also necessary to further protect and re-
10 store these fish.

11 (12) Removal of the 4 lower Snake River dams
12 would affect electricity generation, freight shipping,
13 and water supply systems, and these benefits must
14 be replaced through other means in order to protect
15 local communities, farms, and the regional energy
16 supply system.

17 (13) The 4 lower Snake River dams currently
18 produce renewable electricity. Studies have found
19 that the Northwest has ample additional existing
20 and potential clean renewable energy sources to cost-
21 effectively replace the power produced by these dams
22 in a manner that is compatible with broader efforts
23 to reduce regional greenhouse gas emissions.

24 (14) In the event that the 4 lower Snake River
25 dams are removed, their energy benefits should be

1 replaced with cost-effective, clean renewable sources,
2 as well as energy efficiency and conservation.

3 (15) The removal of the 4 lower Snake River
4 dams would bring opportunities to inland Northwest
5 communities by opening up 140 miles of free-flowing
6 river, and providing needed resources for more effec-
7 tive and efficient freight transportation systems.

8 (16) A Federal court has found that the 4
9 lower Snake River dams violate water quality stand-
10 ards under the Federal Water Pollution Control Act
11 (33 U.S.C. 1251 et seq.).

12 (17) A significant amount of sediment has built
13 up behind Lower Granite Dam, posing a flood risk
14 to the city of Lewiston, Idaho, which now sits below
15 the height of the lower Snake River. A study by the
16 Army Corps of Engineers found that nearly
17 \$2,000,000,000 worth of buildings and infrastruc-
18 ture sit in the Clarkston/Lewiston area floodplain
19 where they face a growing threat of major damage
20 from levee breaching. The same Corps study esti-
21 mates that the costs of river-dredging and levee-rai-
22 sing needed to protect these areas could cost tax-
23 payers hundreds of millions of dollars.

24 (18) Global warming is already having and will
25 continue to have detrimental effects on Pacific salm-

1 on populations. Snake River salmon may be key to
2 maintaining and rebuilding salmon populations
3 throughout the Columbia and Snake River Basin, as
4 their high-elevation spawning grounds are the most
5 likely to remain viable in the face of warming tem-
6 peratures; thus, taking action now to protect these
7 salmon is vitally important.

8 (19) The Northwest Power and Conservation
9 Council commissioned a report in 2000 that con-
10 cluded that removing the 4 lower Snake River dams
11 is a more cost-effective way to restore wild salmon
12 and steelhead populations to the Columbia and
13 Snake River Basin than strategies that do not in-
14 clude dam removal.

15 (20) Three of the last four biological opinions
16 regarding the Columbia and Snake River Federal
17 hydrosystem have been found illegal by Federal
18 courts.

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

20 (1) to ensure the protection and recovery of
21 wild Columbia and Snake River salmon and
22 steelhead to self-sustaining, harvestable levels, while
23 providing for reliable, reasonably priced, and clean
24 renewable energy in the Northwest, a reliable and
25 affordable freight transportation system, and an eco-

1 nominically sustainable salmon recovery program, and
2 to maximize the economic benefits from potential
3 dam removal while mitigating for its impacts; and
4 (2) to ensure that the Northwest and the Na-
5 tion have completed the necessary planning and eval-
6 uation to efficiently manage salmon recovery by im-
7 plementing biologically effective measures and re-
8 sponding rapidly if and when major new actions are
9 determined to be necessary to protect and recover
10 salmon and steelhead in the Columbia and Snake
11 River Basin.

12 **SEC. 3. SCIENTIFIC ANALYSIS OF FEDERAL SALMON RE-**
13 **COVERY EFFORTS.**

14 (a) IN GENERAL.—Not later than 3 months after the
15 date of enactment of this Act, the Secretary of Commerce
16 shall enter into an arrangement with the National Acad-
17 emy of Sciences providing for scientific analysis of Federal
18 salmon recovery efforts and submission of a report on the
19 results of the analysis in accordance with subsection (c).

20 (b) CONTENTS.—For purposes of this section, sci-
21 entific analysis shall include, at a minimum, a review of
22 Snake River dam removal and other actions that may be
23 necessary to achieve recovery of salmon and steelhead pop-
24 ulations of the Columbia and Snake River Basin listed

1 under section 4(c) of the Endangered Species Act of 1973
2 (16 U.S.C. 1533(c)).

3 (c) REPORT.—Not later than 12 months after the
4 date of enactment of this Act, the National Academy of
5 Sciences shall submit to the Secretary of Commerce, the
6 Secretary of the Army, the Secretary of the Interior, the
7 Administrator of the Environmental Protection Agency,
8 and to Congress a report on the results of the scientific
9 analysis conducted under this section.

10 **SEC. 4. STUDY OF RAIL, HIGHWAY, AND BARGE IMPROVE-**
11 **MENTS.**

12 The Secretary of Transportation shall conduct a
13 peer-reviewed analysis of which rail, highway, and Colum-
14 bia River barge infrastructure improvements would be nec-
15 essary to ensure a cost-effective and efficient transpor-
16 tation system for agricultural and other shippers who cur-
17 rently use barge transportation between Lewiston, Idaho,
18 and the confluence of the Snake and Columbia Rivers and
19 would be unable to do so if the 4 lower Snake River dams
20 were removed. This analysis shall include a review of cost
21 increases, if any, of shipping rates and options for ad-
22 dressing any such cost increases so as to minimize the po-
23 tential impact on shippers. This analysis shall incorporate
24 input and feedback from farmers and other shippers, the
25 Washington, Idaho, and Oregon State Departments of

1 Transportation, and other relevant stakeholders in the ag-
2 ricultural, business, and public interest communities, and
3 any suggestions or decisions arrived at through consensus
4 deliberations of the same or similar participants. This
5 analysis shall be completed and a report thereon submitted
6 to Congress within 12 months after the date of the enact-
7 ment of this Act.

8 **SEC. 5. STUDY OF ENERGY REPLACEMENT.**

9 The Secretary of Energy, in consultation with the
10 White House Office of Energy and Climate Change, shall
11 conduct a peer-reviewed analysis of what energy replace-
12 ment options exist to replace the power currently gen-
13 erated by the 4 lower Snake River dams in the event the
14 dams are removed. The analysis shall include a review of
15 existing, planned, and potential clean renewable energy re-
16 sources, in addition to energy efficiency, energy conserva-
17 tion, and combined heat and power projects. This analysis
18 shall be completed and a report thereon submitted to Con-
19 gress within 12 months after the date of enactment of this
20 Act.

21 **SEC. 6. STUDY OF LOWER SNAKE RIVER RIVERFRONT REVI-**
22 **TALIZATION.**

23 The Army Corps of Engineers, in consultation with
24 relevant State and local governments and interested par-
25 ties, shall conduct an analysis of what riverfront revitaliza-

tion and restoration opportunities would exist in the event of the removal of the 4 lower Snake River dams and what costs would be incurred to implement such revitalization and restoration measures. This work shall focus on river-front revitalization for Lewiston, Idaho, and Clarkston, Washington, but may include other impacted communities along the 140 miles of the lower Snake River. This analysis shall be completed and a report thereon submitted to Congress within 12 months after the date of the enactment of this Act, shall include determination of engineering options and costs, and shall be peer-reviewed generally in accordance with section 2034 of Public Law 110–114 to determine the accuracy of the preferred engineering options and costs determined by the Army Corps of Engineers.

SEC. 7. STUDY OF IRRIGATION PROTECTIONS.

The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a peer-reviewed analysis of the options and costs regarding any needed modifications to affected irrigation systems, cooling systems, and private wells if the 4 lower Snake River dams were removed. This analysis shall be completed and a report thereon submitted to Congress within 12 months after the date of the enactment of this Act.

1 **SEC. 8. AUTHORIZATION AND STUDY OF SALMON RECOV-**
2 **ERY.**

3 (a) DAM REMOVAL AUTHORIZATION.—Congress
4 hereby determines that the Secretary of the Army may
5 remove the four lower Snake River dams.

6 (b) REVIEW AND UPDATE OF FEASIBILITY STUDY.—
7 The Secretary of the Army shall re-evaluate and update
8 the U.S. Army Corps of Engineers' Final Lower Snake
9 River Juvenile Salmon Migration Feasibility Report/Envi-
10 ronmental Impact Statement (February 2002) pursuant
11 to new information. The updated feasibility study shall in-
12 corporate and address, at a minimum, the following:

13 (1) Current and expected future climate change
14 impacts on Columbia and Snake River salmon and
15 steelhead populations and their habitat.

16 (2) Replacement of the 4 lower Snake River
17 dams' average energy output (not nameplate capac-
18 ity) with clean renewable energy resources, including
19 energy efficiency and conservation.

20 (3) Options for keeping currently irrigated acre-
21 age intact and under irrigation in a dam removal
22 scenario.

23 (4) Costs associated with Lower Granite Dam
24 reservoir sediment/flood risk mitigation in a non-
25 dam-removal scenario.

1 (5) Passive Use Values associated with both
2 dam removal and non-dam-removal scenarios.

3 (6) Alternate methods for removing the 4 lower
4 Snake River dams in addition to the method ana-
5 lyzed in the 2002 environmental impact statement,
6 including but not limited to full dam removal and re-
7 moving or notching the dams' concrete portions.

8 (c) COMPLETION; REPORT; PEER REVIEW.—The
9 Secretary of the Army shall—

10 (1) complete the re-evaluation and update and
11 submit a report thereon to Congress within 20
12 months after the date of enactment of this Act;

13 (2) include in the report determination of engi-
14 neering options and costs; and

15 (3) shall submit the results of the re-evaluation
16 and update (including such determination of engi-
17 neering options and costs) to peer review generally
18 in accordance with section 2034 of Public Law 110–
19 114 to determine the accuracy of the preferred engi-
20 neering options and costs.

21 **SEC. 9. DEFINITIONS.**

22 In this Act, the following definitions apply:

23 (1) CLEAN RENEWABLE ENERGY RESOURCES.—

24 For the purposes of this bill the term “clean renew-
25 able energy resources” means—

1 (A) incremental electricity produced as the
2 result of efficiency improvements to existing hy-
3 droelectric generation projects, including in irri-
4 gation pipes and canals, where the additional
5 generation in either case does not result in new
6 water diversions or impoundments;

7 (B) wind;

8 (C) solar energy;

9 (D) geothermal energy;

10 (E) landfill gas;

11 (F) wave, ocean, or tidal power;

12 (G) gas from sewage treatment facilities;

13 and

14 (H) biomass energy based on animal
15 waste, food waste, yard waste, or solid organic
16 fuels from wood, forest, or field residues, or
17 dedicated energy crops, other than—

18 (i) wood pieces that have been treated
19 with chemical preservatives such as creosote,
20 pentachlorophenol, or copper-chrome-
21 arsenic;

22 (ii) pulping liquor from paper produc-
23 tion;

24 (iii) wood from old growth forests; or

25 (iv) municipal solid waste.

1 (2) FEDERAL SALMON RECOVERY ACTIONS.—

2 The term “Federal salmon recovery actions” means
3 Federal actions required to protect, recover, and re-
4 store salmon and steelhead in the Columbia and
5 Snake River basin that are listed under section 4(c)
6 of the Endangered Species Act of 1973 (16 U.S.C.
7 1533(c)).

8 (3) LOWER SNAKE RIVER DAMS.—The term “4
9 lower Snake River dams” means the following dams
10 on the Snake River, Washington:

11 (A) The Ice Harbor dam.

12 (B) The Lower Monumental dam.

13 (C) The Little Goose dam.

14 (D) The Lower Granite dam.

15 (4) PEER REVIEW.—The term “peer review”
16 has the meaning that term has in section 2034 of
17 Public Law 110–114.

18 (5) POPULATIONS.—The term “populations”
19 means the 13 evolutionarily significant units of
20 salmon and steelhead in the Columbia and Snake
21 River basin that are listed under section 4(c) of the
22 Endangered Species Act of 1973 (16 U.S.C.
23 1533(c)).

○