

111TH CONGRESS
2D SESSION

S. 3025

To amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect and restore the water quality of the Columbia River Basin, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2010

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect and restore the water quality of the Columbia River Basin, 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 “Columbia River Res-
5 toration Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Columbia River is the largest river in
2 the Pacific Northwest and the fourth largest river in
3 the United States by volume. The river is 1,243
4 miles long, and its drainage basin includes 259,000
5 square miles, extending into 7 States and British
6 Columbia, Canada, and including all or part of 5 na-
7 tional parks, the Columbia River Gorge National
8 Scenic Area, and the Hells Canyon National Recre-
9 ation Area.

10 (2) The Columbia River Basin and its tribu-
11 taries provide significant ecological and economic
12 benefits to the Pacific Northwest and the entire
13 United States. Traditionally, the Columbia River
14 Basin and its tributaries were the largest salmon
15 producing river system in the world, with annual re-
16 turns peaking at as many as 30 million fish. The
17 Columbia River drainage basin includes more than 6
18 million acres of irrigated agricultural land, and its
19 14 hydroelectric dams, combined with additional
20 dams on its tributaries, produce more hydroelectric
21 power than any other North American river.

22 (3) The Lower Columbia River Estuary
23 stretches 146 miles from the Bonneville Dam to the
24 mouth of the Pacific Ocean, and much of this area
25 is degraded. Polychlorinated biphenyls (PCBs) in

1 salmon tissue and polycyclic aromatic hydrocarbons
2 (PAHs) in salmon prey exceed estimated thresholds
3 for delayed mortality, increased disease suscepti-
4 bility, and reduced growth. Legacy contaminants
5 (DDT and PCBs) banned in the 1970s are still de-
6 tected in river water, sediments, and juvenile Chi-
7 nook salmon. Several pesticides have been detected,
8 including atrazine and simazine, which can affect
9 salmon behavior or act as hormone disruptors.
10 Emerging contaminants, such as hormone disruptors
11 from pharmaceutical and personal care products,
12 have been found in river water and juvenile male
13 salmon. These contaminants may impair salmon
14 growth, health, and reproduction.

15 (4) The Middle and Upper Columbia River
16 Basin includes 1,050 miles of the mainstem Colum-
17 bia River upstream of the Bonneville Dam, including
18 the 1,040 miles of its largest tributary, the Snake
19 River, and all of the tributaries to both rivers. The
20 Environmental Protection Agency's (EPA's) Colum-
21 bia River Basin Fish Contaminant Survey detected
22 the presence of 92 priority pollutants, including
23 PCBs, dioxins, furans, arsenic, mercury, and DDE
24 (a breakdown product of DDT), in fish that are con-
25 sumed by the Confederated Tribes of the Warm

1 Springs, the Confederated Tribes and Bands of the
2 Yakama Nation, the Confederated Tribes of the
3 Umatilla Indian Reservation, and the Nez Perce
4 Tribe, as well as by other people consuming fish
5 throughout the Columbia River Basin. A fish con-
6 sumption survey by the Columbia River Intertribal
7 Fish Commission showed that tribal members were
8 eating 6 to 11 times more fish than EPA's esti-
9 mated national average. The nuclear and toxic con-
10 tamination at the Hanford Nuclear Reservation pre-
11 sents an ongoing risk of contamination in the Middle
12 Columbia Basin. Sampling of sediments by the EPA
13 in 2004 documented widespread presence of toxic
14 flame retardants known as polyrominated diphenyl
15 ethers.

16 (5) Contamination of the Middle and Upper Co-
17 lumbia River Basin has a direct impact on water
18 quality and habitat quality in the Lower Columbia
19 River Estuary. Investments in habitat restoration
20 and toxics reduction in the Middle and Upper Co-
21 lumbia River Basin can have significant benefits for
22 fish and wildlife throughout the entire basin.

23 (6) Together with the Governors of Oregon and
24 Washington, the EPA created the Lower Columbia
25 River Estuary Partnership (Estuary Partnership) in

1 1995 to provide regional coordination to focus on
2 the lower river, to advance the science of the eco-
3 system, and to deliver environmental results. The
4 Estuary Partnership was formed within the National
5 Estuary Program and provides a structure for orga-
6 nization and collaboration to implement Federal pri-
7 orities. The Estuary Partnership includes all key
8 Federal agencies as part of its management and gov-
9 erning structure, including the EPA, the United
10 States Geological Survey (USGS), the National Oce-
11 anic and Atmospheric Administration (NOAA), the
12 Army Corps of Engineers, the Forest Service, and
13 tribal, State, and local governments.

14 (7) The Columbia River Basin was designated
15 by the EPA as an “Estuary of National Signifi-
16 cance” in 1995 and a “Large Aquatic Ecosystem”
17 in 2006.

18 (8) The Estuary Partnership has developed an
19 unparalleled 2-State, public and private partnership,
20 including unprecedented collaborative efforts among
21 key Federal partners, including the EPA, the
22 NOAA, the USGS, and the Army Corps of Engi-
23 neers to advance Federal goals, and the Estuary
24 Partnership and its partners have gathered scientific
25 information and compiled data, and have made sig-

1 nificant gains in habitat protection and environ-
2 mental education.

3 (9) Despite these advances, further degradation
4 exists and contaminants persist in the Columbia
5 River Basin and are impairing the health of fish,
6 wildlife, and humans. Degraded conditions in the
7 river exacerbate the challenges already faced by the
8 13 species of salmon and steelhead in the Columbia
9 River Basin listed as threatened or endangered
10 under the Endangered Species Act of 1973.

11 (10) The “Estuary Partnership Comprehensive
12 Conservation and Management Plan” (1999), the
13 “Northwest Power and Conservation Council Lower
14 Columbia Province Plan” (2004, amended 2008),
15 the draft “NOAA Columbia River Estuary Recovery
16 Module for Salmon and Steelhead” (2010), the
17 States of Oregon, Idaho, and Washington Recovery
18 Plans, the “Biological Opinion for the Federal Co-
19 lumbia River Power System (FCRPS)” (2000, 2004,
20 2008), and the “EPA Columbia Basin State of the
21 River Report for Toxics” (2009) consistently iden-
22 tify habitat loss and toxic contamination as threats
23 to fish and wildlife.

1 **SEC. 3. COLUMBIA RIVER.**

2 Title I of the Federal Water Pollution Control Act
3 (33 U.S.C. 1251 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 123. COLUMBIA RIVER.**

6 “(a) DEFINITIONS.—In this section, the following
7 definitions apply:

8 “(1) ACTION PLAN.—The term ‘Action Plan’
9 means the ‘Columbia River Basin Toxics Reduction
10 Action Plan’ developed by the Environmental Pro-
11 tection Agency and the Columbia River Toxics Re-
12 duction Working Group in 2010, including any
13 amendments thereto.

14 “(2) COMPREHENSIVE PLAN.—The term ‘Com-
15 prehensive Plan’ means the ‘Estuary Partnership
16 Comprehensive Conservation and Management Plan’
17 adopted by the Environmental Protection Agency
18 and the Governors of Oregon and Washington on
19 October 20, 1999, under section 320, including any
20 amendments thereto.

21 “(3) ESTUARY PARTNERSHIP.—The term ‘Es-
22 tuary Partnership’ means the Lower Columbia River
23 Estuary Partnership, an entity created by the States
24 of Oregon and Washington and the Environmental
25 Protection Agency under section 320.

1 “(4) LOWER COLUMBIA RIVER AND ESTUARY.—
 2 The term ‘Lower Columbia River and Estuary’
 3 means the region consisting of the lower 146 miles
 4 of the Columbia River Basin from the Bonneville
 5 Dam to the Pacific Ocean.

6 “(5) MIDDLE AND UPPER COLUMBIA RIVER
 7 BASIN.—The term ‘Middle and Upper Columbia
 8 River Basin’ means the region consisting of the
 9 United States portion of the Columbia River Basin
 10 above Bonneville Dam, including the Snake River
 11 (and its tributaries) and other tributaries of the Co-
 12 lumbia River.

13 “(6) TEAM LEADER.—The term ‘Team Leader’
 14 means the Team Leader appointed under subsection
 15 (b).

16 “(b) PROGRAM TEAM.—

17 “(1) ESTABLISHMENT.—The Administrator
 18 shall establish in the Environmental Protection
 19 Agency a Columbia River Program Team. The Team
 20 shall be located within the Oregon Operations Office
 21 for Region 10 of the Environmental Protection
 22 Agency.

23 “(2) APPOINTMENT OF TEAM LEADER.—The
 24 Administrator shall appoint a Team Leader, who, by
 25 reason of management experience and technical ex-

1 pertise relating to the Columbia River Basin, shall
 2 be highly qualified to support the development and
 3 implementation of projects, programs, and studies
 4 necessary to implement the Action Plan.

5 “(3) DELEGATION OF AUTHORITY; STAFFING.—

6 The Administrator shall delegate to the Team Lead-
 7 er such authority and provide such additional staff
 8 as may be necessary to carry out this section.

9 “(c) DUTIES.—

10 “(1) IN GENERAL.—In carrying out this sec-
 11 tion, the Administrator, acting through the Team
 12 Leader, shall—

13 “(A) assist and support the implementa-
 14 tion of the Action Plan and the Comprehensive
 15 Plan;

16 “(B) coordinate the implementation of the
 17 Action Plan and the Comprehensive Plan, and
 18 the development of any updates to those plans,
 19 with programs and projects in the Middle and
 20 Upper Columbia River Basin;

21 “(C) make such other updates to the Ac-
 22 tion Plan and the Comprehensive Plan as the
 23 Administrator, in consultation with appropriate
 24 Federal agencies, the States of Oregon, Wash-
 25 ington, and Idaho, tribal governments, local

1 governments, and other public and private in-
2 terests in the Columbia River Basin, considers
3 appropriate;

4 “(D) provide funding and make grants for
5 implementation of the Action Plan and the
6 Comprehensive Plan and projects, programs,
7 and studies consistent with the priorities of the
8 Action Plan and the Comprehensive Plan;

9 “(E) promote innovative methodologies and
10 technologies that are cost effective and con-
11 sistent with the identified goals and objectives
12 of the Action Plan and the Comprehensive Plan
13 and the permitting processes of the Environ-
14 mental Protection Agency;

15 “(F) coordinate the major functions of the
16 Federal Government related to the implementa-
17 tion of the Action Plan and the Comprehensive
18 Plan, including projects, programs, and studies
19 for—

20 “(i) water quality improvements;

21 “(ii) toxics reduction and monitoring;

22 “(iii) wetland, riverine, and estuary
23 restoration and protection;

24 “(iv) nearshore and endangered spe-
25 cies recovery; and

1 “(v) stewardship and environmental
2 education;

3 “(G) coordinate the research and planning
4 projects authorized under this section with Fed-
5 eral agencies, State agencies, tribal govern-
6 ments, universities, and the Estuary Partner-
7 ship, including conducting or commissioning
8 studies considered necessary for strengthened
9 implementation of the Action Plan and the
10 Comprehensive Plan;

11 “(H) track progress toward meeting the
12 identified goals and objectives of the Action
13 Plan and the Comprehensive Plan by—

14 “(i) implementing and supporting a
15 project, program, and monitoring system
16 consistent with performance-based eco-
17 system standards and management; and

18 “(ii) coordinating, managing, and re-
19 porting environmental data related to the
20 Action Plan and the Comprehensive Plan
21 in a manner consistent with methodologies
22 utilized by the Estuary Partnership, in-
23 cluding making such data and reports on
24 such data available to the public, including
25 on the Internet, in a timely fashion; and

1 “(I) collect and make available to the pub-
2 lic, including on the Internet, publications and
3 other forms of information relating to the envi-
4 ronmental quality of the Lower Columbia River
5 and Estuary.

6 “(2) IMPLEMENTATION METHODS.—The Ad-
7 ministrator, acting through the Team Leader, may
8 enter into interagency agreements, make intergov-
9 ernmental personnel appointments, provide funding,
10 make grants, and utilize other available methods in
11 carrying out the duties under this subsection.

12 “(d) REPORT.—Not later than one year after the
13 date of enactment of this section, and biennially there-
14 after, the Administrator shall submit to Congress a report
15 that—

16 “(1) summarizes the progress made in imple-
17 menting the Action Plan and the Comprehensive
18 Plan and the progress made toward achieving the
19 identified goals and objectives described in such
20 plans;

21 “(2) summarizes any modifications to the Ac-
22 tion Plan and the Comprehensive Plan made in the
23 period immediately preceding the report;

1 “(3) incorporates specific recommendations con-
 2 cerning the implementation of the Action Plan and
 3 the Comprehensive Plan; and

4 “(4) summarizes the roles and progress of each
 5 Federal agency that has jurisdiction in the Columbia
 6 River Basin toward meeting the identified goals and
 7 objectives of the Action Plan and the Comprehensive
 8 Plan.

9 “(e) IMPLEMENTATION OF ACTION PLAN AND COM-
 10 PREHENSIVE PLAN.—

11 “(1) IN GENERAL.—The Administrator, acting
 12 through the Team Leader and in consultation with
 13 the Estuary Partnership, shall carry out projects,
 14 programs, and studies to implement the Action Plan
 15 and the Comprehensive Plan.

16 “(2) PRIORITY PROJECTS, PROGRAMS, AND
 17 STUDIES.—The Administrator may give special em-
 18 phasis to projects, programs, and studies that are
 19 identified as priorities by the Estuary Partnership in
 20 the Action Plan and the Comprehensive Plan.

21 “(3) GRANTS.—

22 “(A) IN GENERAL.—The Administrator,
 23 acting through the Team Leader, is authorized
 24 to make grants for projects, programs, and

1 studies to implement the Action Plan and the
2 Comprehensive Plan.

3 “(B) ALLOCATIONS.—In making grants
4 using funds appropriated to carry out this para-
5 graph for a fiscal year, the Administrator, act-
6 ing through the Team Leader, shall use—

7 “(i) not less than 40 percent of the
8 funds to make a comprehensive grant to
9 the Estuary Partnership to manage imple-
10 mentation of the Comprehensive Plan;

11 “(ii) not less than 50 percent of the
12 funds to make grants, as allocated by the
13 Team Leader, for projects, programs and
14 studies prioritized in the Action Plan
15 throughout the Columbia River Basin, and
16 for other coordinated projects, programs,
17 and studies in the Middle and Upper Co-
18 lumbia River Basin; and

19 “(iii) not more than 5 percent of the
20 funds for project management, administra-
21 tion, and reporting.

22 “(4) FEDERAL SHARE.—The Federal share of
23 the costs for which a grant is made under this sec-
24 tion shall be 75 percent, except that the Adminis-
25 trator may increase the Federal share in such cir-

1 cumstances as the Administrator determines appro-
2 priate.

3 “(f) ANNUAL BUDGET PLAN.—The President, as
4 part of the President’s annual budget submission to Con-
5 gress under section 1105(a) of title 31, United States
6 Code, shall submit information regarding each Federal
7 agency involved in protection and restoration of the Co-
8 lumbia River Basin, including—

9 “(1) an interagency crosscut budget that dis-
10 plays for each Federal agency—

11 “(A) the amounts obligated in the pre-
12 ceding fiscal year for protection and restoration
13 projects, programs, and studies relating to the
14 Columbia River Basin;

15 “(B) the estimated budget for the current
16 fiscal year for protection and restoration
17 projects, programs, and studies relating to the
18 Columbia River Basin; and

19 “(C) the proposed budget for protection
20 and restoration projects, programs, and studies
21 relating to the Columbia River Basin; and

22 “(2) a description and assessment of the Fed-
23 eral role in the development and implementation of
24 the Action Plan and the Comprehensive Plan and
25 the specific role of each Federal agency involved in

1 protection and restoration of the Columbia River
2 Basin, including specific projects, programs, and
3 studies conducted or planned to achieve the identi-
4 fied goals and objectives of the Action Plan and the
5 Comprehensive Plan.

6 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
7 is authorized to be appropriated to the Administrator to
8 carry out this section \$40,000,000 for each of fiscal years
9 2011 through 2016. Such sums shall remain available
10 until expended.”.

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