

Public Law 101-452
101st Congress

An Act

Oct. 24, 1990
[H.R. 3787]

Chehalis River
Basin Fishery
Resources Study
and Restoration
Act of 1990.

To authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chehalis River Basin Fishery Resources Study and Restoration Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Chehalis River Basin in southwestern Washington, including Grays Harbor and its tributaries, has approximately 1,400 separate rivers and streams totaling nearly 3,400 miles in length which flow into the Pacific Ocean through Grays Harbor, a major west coast estuarine system.

(2) The Basin historically produced large runs of anadromous and resident fish that supported important commercial, recreational, and tribal fisheries within the Basin and off the coast of the States of Washington and Alaska and Canada; however, the population of these fishery resources is less than one-half the levels that occurred prior to 1935.

(3) The decline in productivity of the Chehalis system is thought to result from a number of activities. Ongoing studies by the State of Washington and others have linked significant mortality of Chehalis River salmon to water quality degradation, sedimentation of spawning gravels, reduced stream flows, and reduced spawning escapements.

(4) The Federal Government has a substantial interest in the fishery resources of the Basin because important interjurisdictional (including international) and tribal fisheries are involved and several federally constructed, permitted, and licensed water projects are located in the Basin.

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

(1) to require a comprehensive study of the causes of the decline of fishery resources originating in the Chehalis River Basin;

(2) to develop recommendations for a program to address the causes of those declines; and

(3) to restore those fishery resources in a reasonable period of time.

SEC. 3. JOINT FEDERAL, STATE, AND TRIBAL STUDY AND RECOMMENDATIONS.

(a) STUDY.—Subject to section 5, the Director of the United States Fish and Wildlife Service shall undertake a comprehensive study of the fishery resources and habitats of the Basin and, on the basis of such study, develop goals and recommend short- and long-term

actions for achieving those goals and maximizing the restoration and conservation of those fishery resources and habitats. The Director shall submit the study, goals, and recommended short- and long-term actions to the Congress before October 1, 1992.

(b) PARTICIPATION OF STATE OF WASHINGTON.—

(1) INVITATION.—In carrying out subsection (a), the Director shall invite the heads of the departments of Fisheries, Wildlife, and Ecology of the State of Washington to participate jointly in undertaking the study and developing goals and recommending actions.

(2) MEMORANDUM OF UNDERSTANDING.—The Director, the head of the Council of the Chehalis Tribe, the head of the Council of the Quinault Indian Nation, and each head of a State department participating pursuant to paragraph (1), shall enter into a memorandum of understanding setting forth the respective responsibilities of each entity in carrying out the study and making recommendations regarding fishery resource restoration under subsection (a).

(c) CONSULTATION.—In carrying out this Act, the Director shall, to the maximum extent practicable, consult with the National Marine Fisheries Service, Army Corps of Engineers, Environmental Protection Agency, Federal Energy Regulatory Commission, Soil Conservation Service, State of Washington agencies, including the Department of Natural Resources, the Northwest Indian Fisheries Commission, affected local governments, appropriate commercial, recreational, and Tribal fishing interests, other affected or interested entities, and (if the joint participation referred to in this section is not effected) the heads of the Departments of Fisheries, Wildlife, and Ecology of the State of Washington.

(d) MAPS.—The Director shall prepare and maintain maps depicting the Chehalis River Basin for use in fulfilling the purposes of this Act.

SEC. 4. STUDY CONTENTS.

The study under section 3 shall take advantage of and build upon ongoing watershed planning and research efforts to identify fishery resource problems in the basin to complete the following:

(1) DESCRIPTION OF BASIN.—A physical, hydrographic, economic, and social description of the Basin.

(2) HISTORICAL FISHERY RESOURCES AND HABITATS.—A historical account of the fishery resources and habitats of the Basin.

(3) DESCRIPTION OF FISHERY RESOURCES AND HABITATS.—A comprehensive description of the fishery resources and habitats of the Basin, including—

(A) population estimates of fishery resources in the Basin that are of sport or commercial value, important forage resources, or otherwise of significance;

(B) an analysis of the current status and trends of the Basin's fishery resources and their use, and the cause of any decline in population of each such species, including the extent and causes of environmental problems in Grays Harbor and the lower Chehalis River and other impediments to smolt and adult migration in the Basin;

(C) an identification of the location, quantity, and extent of utilization of existing adult holding, spawning, and juvenile rearing habitat, as well as the location of degraded fish habitat, and impediments to use of potential adult holding, spawning, and juvenile rearing habitat in the Basin;

(D) estimates of instream flows needed where insufficient stream flows occur due to human activities and development of instream flow strategies to address these problems; and

(E) a projection of the problems that the species identified as a result of subparagraph (A) are expected to encounter in the future.

(4) **EFFECTS OF LAND USE ON FISHERY RESOURCES.**—An analysis of how Basin characteristics and past, current, and projected land and water use within the Basin have affected, and can be expected to affect, its fishery resources and habitats, including documentation of the nature, source, and magnitude of point and nonpoint pollution, sedimentation, and runoff characteristics.

(5) **REVIEW AND EVALUATION OF AVAILABLE INFORMATION AND RESTORATION STUDIES AND ACTIONS.**—(A) A review of past and ongoing research on the decline of Chehalis Basin fishery resources and the results of existing or previous attempts to address the declines.

(B) Based on the review under subparagraph (A), an evaluation of the adequacy of the information that is currently available, and specification of the additional types, quantity, and periodicity of information that must be obtained, for the purposes of restoring and conserving the fishery resources and habitats of the Basin.

(6) **FEDERAL, STATE, TRIBAL, AND LOCAL GOVERNMENT ROLES.**—A discussion of Federal, State, Tribal, and local government statutory authorities and programs that pertain to the conservation and restoration of the fishery resources and habitats of the Basin, with particular attention being given to the fishery management plans and programs of those jurisdictions and the relationship to applicable private fishery conservation and management activities.

(7) **RESTORATION PROGRAM RECOMMENDATIONS AND RESPONSIBILITIES.**—A comprehensive statement of fishery resource restoration goals and objectives for fish originating in the Basin and the remedial actions and programs necessary to achieve those goals and objectives. The statement shall designate the authorities responsible, together with a projected timetable, for taking such actions and carrying out such programs. In addition, the statement shall prescribe the areas and priorities for any additional studies needed to restore fishery resources in the Basin.

SEC. 5. COST SHARING.

(a) **REQUIREMENT FOR SHARING.**—The State of Washington may not participate in undertaking the study under section 3, including developing goals and recommending actions for the restoration and conservation of the fishery resources and habitats of the Basin, unless the Director is satisfied that non-Federal and nontribal participants in the study will pay in the aggregate at least one-sixth of the cost of the study.

(b) **IN-KIND CONTRIBUTIONS.**—

(1) **IN GENERAL.**—The non-Federal share required by subsection (a) may be in the form of cash or services, or other in-kind contributions, fairly valued, including the time of State employees not funded from Federal sources.

(2) **QUALIFICATIONS AND OTHER STANDARDS.**—The Director shall by regulation establish—

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

(B) the standards under which the Director will determine the value of in-kind contributions for purposes of this subsection.

Valuations made by the Director under this subsection are final and not subject to judicial review.

(c) **LIMITATION.**—The Director shall not consider the expenditure, either directly or indirectly, of Federal moneys received by the State of Washington or any local government of such a State, to be a financial contribution from a non-Federal source. For purposes of this section, funds provided to the tribes under authority of the Indian Self-Determination Act (25 U.S.C. 450f-450n) shall not be considered Federal moneys.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) **BASIN.**—The term “Basin” means the Chehalis River Basin in the State of Washington, including the Chehalis River in southwestern Washington and its drainage basin as well as Grays Harbor and the remainder of its drainage basin.

(2) **DIRECTOR.**—The term “Director” means the Director of the United States Fish and Wildlife Service, acting for the Secretary of the Interior.

(3) **FISHERY RESOURCES.**—The term “fishery resources” means—

(A) any stock of fish;

(B) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, recreational, or economic considerations;

(C) any species of fish; or

(D) any habitat of fish.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director not more than \$2,500,000 to carry out this Act, to remain available until expended. One-fifth of any amounts appropriated under the authority of this section shall be made available to the Chehalis Tribe and the Quinault Indian Nation to carry out their responsibilities under a memorandum of understanding entered into pursuant to section 3(b).

Approved October 24, 1990.

LEGISLATIVE HISTORY—H.R. 3787:

HOUSE REPORTS: No. 101-594 (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 101-485 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 136 (1990):

July 16, considered and passed House.

Oct. 8, considered and passed Senate.