

SUBCHAPTER CIV—KLAMATH RIVER
CONSERVATION AREA

§ 460ss. 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 populations to optimum levels in both the Klamath and Trinity River Basins;¹

(Pub. L. 99-552, §1, Oct. 27, 1986, 100 Stat. 3080.)

SHORT TITLE

Section 8 of Pub. L. 99-552, as added by Pub. L. 100-653, title VI, §604, Nov. 14, 1988, 102 Stat. 3830, provided that: "This Act [enacting this subchapter] may

be cited as the 'Klamath River Basin Fishery Resources Restoration Act'."

SALMON PLAN AND STUDY

Pub. L. 109-479, title I, §113(b), Jan. 12, 2007, 120 Stat. 3602, provided that:

"(1) RECOVERY PLAN.—Not later than 6 months after the date of enactment of this Act [Jan. 12, 2007], the Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public.

"(2) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources [now Committee on Natural Resources] on—

"(A) the actions taken under the recovery plan and other law relating to recovery of Klamath River Coho salmon, and how those actions are specifically contributing to its recovery;

"(B) the progress made on the restoration of salmon spawning habitat, including water conditions as they relate to salmon health and recovery, with emphasis on the Klamath River and its tributaries below Iron Gate Dam;

"(C) the status of other Klamath River anadromous fish populations, particularly Chinook salmon; and

"(D) the actions taken by the Secretary to address the calendar year 2003 National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks."

§ 460ss-1. Establishment

(a) In general

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 subchapter referred to as the "Area").

(b) Restoration program

(1) Establishment

The Secretary shall, in consultation with the task force established under section 460ss-3 of this title, 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 460ss(6) of this title 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 460ss-3 of this title, 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

(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;

¹ So in original. The semicolon probably should be a period.

(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—

- (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.

(Pub. L. 99-552, §2, Oct. 27, 1986, 100 Stat. 3081.)

§ 460ss-2. Klamath Fishery Management Council

(a) Establishment

There is established a Klamath Fishery Management Council (hereafter in this subchapter 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) of this section shall be made in consultation with the appropriate users of Area anadromous fish resources.

(e) Qualifications

Council members shall be individuals who are knowledgeable¹ 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.

¹ So in original. Probably should be "knowledgeable".