



AUG -4 2003

The Honorable Richard Pombo
Chairman, Committee on Resources
U.S. House of Representatives
Washington, D.C. 20515-6201

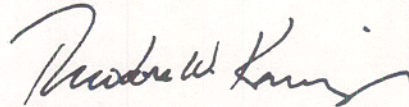
Dear Mr. Chairman:

Thank you for the opportunity to comment on H.R. 1945, the "Pacific Salmon Recovery Act," as reported by the Resources Committee on June 11, 2003. Among other things, H.R. 1945 authorizes the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages. The Department of Commerce supports providing funding to the States and tribes for Pacific salmon recovery efforts.

This bill is similar to the current authorization for Pacific salmon recovery funds to the States and tribes. We have enclosed a list of detailed comments, grouped by sections. Mr. Chairman, we appreciate the Committee's strong interest in these issues and look forward to working with you to implement salmon conservation and recovery efforts.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the viewpoint of the Administration's program.

Sincerely,


Theodore W. Kassinger

Enclosure

cc: The Honorable Nick Rahall, II
Ranking Minority Member

The Honorable Wayne Gilchrest
The Honorable Frank Pallone, Jr.
Subcommittee on Fisheries Conservation,
Wildlife and Oceans

Department of Commerce
Comments on H.R. 1945, as reported

1. Section 2: We support the 90%:10% allocation between the States and tribes. However, within those categories, we recommend that the funds be distributed in proportion to the needs for recovery of salmonids. This apportionment would be based on factors such as numbers of Endangered Species Act (ESA) listed populations and areas affected by listed species. The Secretary of Commerce should be charged with distributing the funds based on a needs assessment conducted in consultation with the States and tribes.
2. Section 3: We support the requirement that a qualified state or qualified tribal government must enter into a memorandum of understanding with the Secretary in order to receive assistance under the Act under section 3(a)(1).

Critical droughts the last few years in the Pacific Northwest have highlighted the need for these funds to be available for States to set up water banks and other mechanisms to provide instream flows for fish. Section 3(b)(1)(E) should be revised to read: "other activities related to salmon conservation and salmon habitat restoration, including the establishment of water banks or the purchase or lease of water or water rights from willing sellers." This would more explicitly recognize these activities as acceptable uses of the funds.

We support the addition of sections 3(b)(1)(F) and 3(b)(1)(G) to address our earlier comments that bull trout and Lahontan cutthroat trout should not be included in the definition of salmon in section 7 of the bill. We also support the addition of language that would recognize the Department of the Interior lead for management of bull trout and Lahontan cutthroat trout and, as such, recommend that the Department of the Interior be consulted and its existing recovery plans for these species be reviewed when planning to expend funds in the recovery of these species.

Section 3(d)(1): We support a non-Federal match requirement for the program.

Section 3(f)(1): We support the allowance of 2% of the funds for administrative expenses for use by the Secretary. These funds would allow the National Marine Fisheries Service to coordinate and implement a credible performance measurement system for the program as well as to coordinate the development of reports on program accomplishments.

3. Section 5: We support exempting the transfer of funds from the ESA consultation of section 7, but the bill should be revised to reflect that projects or activities that affect listed species shall remain subject to Endangered Species Act consultation.
4. Section 6: We support reporting on the use of the financial assistance under sections 6(a) and 6(b)(1) as well as reporting on a review of the memoranda of understanding between the Secretary and qualified State and tribal governments under section 6(b)(2). However, it is our view that this reporting could be accomplished with a single annual report to be

developed by the Secretary, in cooperation with qualified States and tribal governments, that would describe the use of the financial assistance, an evaluation of the success of the Act in meeting the criteria under section 3(a)(2), a review of the memoranda of understanding, and any recommended program revisions that resulted from the evaluation and review. This report should be due no later than April 30 of each year to allow for a complete reporting of the previous calendar years activities.

5. Section 8: We defer to the Department of State, which we understand will provide comments in a separate letter.
6. Section 9: The Pacific Coastal Salmon Recovery Fund was authorized for appropriations at \$90M for the States and \$10M for the tribes through FY 2003 (Public Law 106-553). This bill changes the authorization to \$200M for States and tribes. We request that the authorization be changed for FY 2004 to reflect the amounts in the President's FY 2004 budget request, which includes \$90M for the Pacific Coastal Salmon Recovery Fund.