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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To require the identification of salmon conservation areas and salmon strongholds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUFFMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To require the identification of salmon conservation areas and salmon strongholds, 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 Focused In-
5 vestments in Sustainable Habitats Act” or the “Salmon
6 FISH Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Pacific and Atlantic salmon are important
2 for food, culture, ecology, and the economy.

3 (2) Salmon are especially important to Indian
4 tribes, many of which consider salmon to be sacred
5 and central to their culture, ceremonies, and subsist-
6 ence.

7 (3) Such Indian tribes have significant leader-
8 ship and expertise with respect to salmon.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) INDIAN TRIBE.—The term “Indian tribe”
12 has the meaning given the term in section 4(e) of
13 the Indian Self-Determination and Education Assist-
14 ance Act (25 U.S.C. 5304(e)).

15 (2) SALMON.—The term “salmon” means any
16 of the wild anadromous *Oncorhynchus* species that
17 occur in the Western United States, including—

18 (A) Atlantic salmon (*Salmo salar*);

19 (B) chum salmon (*Oncorhynchus keta*);

20 (C) pink salmon (*Oncorhynchus gorbuscha*);

21 (D) sockeye salmon (*Oncorhynchus nerka*);

22 (E) chinook salmon (*Oncorhynchus*
23 *tshawytscha*);

24 (F) coho salmon (*Oncorhynchus kisutch*);

25 and

1 (G) steelhead trout (*Oncorhynchus mykiss*).

2 (3) SALMON CONSERVATION AREA.—The term
3 “salmon conservation area” means a watershed, a
4 portion of a watershed, multiple watersheds, or other
5 defined spatial unit that—

6 (A) is identified as a salmon conservation
7 area under section 4(b);

8 (B) at the time of the identification de-
9 scribed in subparagraph (A), meets the biologi-
10 cal criteria (as identified by the Administrator
11 of the National Oceanic and Atmospheric Ad-
12 ministration and the Director of the Fish and
13 Wildlife Service in coordination with the rel-
14 evant Federal agency with jurisdiction over
15 such salmon conservation area) for abundance,
16 productivity, diversity (genetic and life history),
17 habitat quality, or other biological attributes
18 important to sustaining viable populations of
19 salmon throughout the range of such salmon;
20 and

21 (C) is regionally significant for the con-
22 servation of salmon.

23 (4) SALMON STRONGHOLD.—The term “salmon
24 stronghold” means a salmon conservation area
25 that—

1 (A) is identified as a salmon conservation
2 area under section 4(b); and

3 (B) at the time of the identification de-
4 scribed in subparagraph (A), has—

5 (i) relatively high anadromous
6 salmonid abundance, productivity, and di-
7 versity (life history and run timing), as
8 well as habitat quality or other biological
9 attributes important to sustaining viable
10 populations of wild salmon throughout the
11 range of such salmon;

12 (ii) populations of salmon that are
13 strong and diverse; and

14 (iii) salmon habitats that have a high
15 intrinsic potential to support a particular
16 species or suite of species.

17 (5) RELEVANT FEDERAL AGENCY.—The term
18 “relevant Federal agency” means—

- 19 (A) the Forest Service;
20 (B) the Bureau of Land Management;
21 (C) the National Park Service; and
22 (D) the Bureau of Indian Affairs.

1 **SEC. 4. IDENTIFICATION OF SALMON CONSERVATION**
2 **AREAS AND SALMON STRONGHOLDS.**

3 (a) GUIDANCE.—Not later than 120 days after the
4 date of the enactment of this Act, the Administrator of
5 the National Oceanic and Atmospheric Administration
6 and the Director of the Fish and Wildlife Service shall
7 jointly issue guidance on the process and biological criteria
8 required to identify salmon conservation areas and salmon
9 strongholds.

10 (b) PUBLICATION.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of the enactment of this Act, the Adminis-
13 trator of the National Oceanic and Atmospheric Ad-
14 ministration and the Director of the Fish and Wild-
15 life Service, in cooperation with relevant Federal
16 agencies shall publish a list of salmon conservation
17 areas and salmon strongholds.

18 (2) REVISION.—The Administrator of the Na-
19 tional Oceanic and Atmospheric Administration and
20 the Director of the Fish and Wildlife Service, in co-
21 operation with each relevant Federal agency shall
22 not less frequently than once every 5 years after the
23 date of the enactment of this Act, revise the list
24 under paragraph (1)—

1 (A) to add subsequently identified salmon
2 conservation areas and salmon strongholds in
3 accordance with subsection (d); and

4 (B) to remove from such list any areas
5 that no longer qualify as salmon conservation
6 areas or salmon strongholds.

7 (c) CONSULTATION.—In identifying salmon conserva-
8 tion areas and salmon strongholds under subsection (b),
9 the Administrator of the National Oceanic and Atmos-
10 pheric Administration and the Director of the Fish and
11 Wildlife Service, in cooperation with each relevant Federal
12 agency—

13 (1) shall consult with—

14 (A) the State in which such a salmon con-
15 servation area or salmon stronghold under con-
16 sideration are located; and

17 (B) Indian tribes that have land, fishing
18 rights, or cultural ties to the area in which the
19 salmon conservation area or salmon strongholds
20 will be prospectively located; and

21 (2) may consult with—

22 (A) nongovernmental organizations;

23 (B) non-Federal scientists; and

24 (C) members of the public.

25 (d) SUBSEQUENT IDENTIFICATION AND REVISION.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date described in subsection (b)(1), an entity de-
3 scribed in paragraph (1) or paragraph (2) subsection
4 (c) may nominate to the Administrator of the Na-
5 tional Oceanic and Atmospheric Administration and
6 the Director of the Fish and Wildlife Service a salm-
7 on conservation area or salmon stronghold for iden-
8 tification under subsection (b).

9 (2) REVIEW.—In the case of a nomination de-
10 scribed in paragraph (1), not later than 180 days
11 after receiving such nomination, the Administrator
12 of the National Oceanic and Atmospheric Adminis-
13 tration and the Director of the Fish and Wildlife
14 Service shall jointly determine if the nominated wa-
15 tershed is a salmon conservation area or salmon
16 stronghold and provide to the entity that provided
17 the nomination under paragraph (1) a written expla-
18 nation with respect to such determination.

19 (e) WATERSHED MANAGEMENT AND RESTORATION
20 IDENTIFICATION.—The Administrator of the National
21 Oceanic and Atmospheric Administration and the Director
22 of the Fish and Wildlife Service, in cooperation with the
23 Secretary of Agriculture shall use watershed evaluations
24 conducted under the Watershed Condition Framework
25 under section 304 of the Healthy Forests Restoration Act

1 of 2003 (16 U.S.C. 6543) and other relevant watershed
2 analyses to support the identification of salmon conserva-
3 tion areas and salmon strongholds under this section.

4 (f) **ESSENTIAL FISH HABITAT.**—The Administrator
5 of the National Oceanic and Atmospheric Administration
6 and the Director of the Fish and Wildlife Service shall
7 use the analyses conducted by the Administrator under
8 section 305(b) of the Magnuson-Stevens Fishery Con-
9 servation and Management Act (16 U.S.C. 1855(b)) to
10 identify, map, and designate essential fish habitat to sup-
11 port the identification of salmon conservation areas and
12 salmon strongholds under this section.

13 **SEC. 5. EFFECT OF IDENTIFICATION.**

14 (a) **PRIORITY FOR FOREST ROAD DECOMMISS-**
15 **SIONING.**—The Secretary of Agriculture—

16 (1) shall give priority to forest road decommiss-
17 sioning (as defined in section 212.1 of title 36, Code
18 of Federal Regulations) and fish passage projects
19 within or directly affecting a salmon conservation
20 area or salmon stronghold; and

21 (2) may not carry out the forest road decom-
22 missioning or fish passage projects described in
23 paragraph (1) unless the Secretary of Agriculture
24 has, with respect to ensuring that the habitats of

1 salmon conservation areas and salmon strongholds
2 are not degraded, consulted with the—

3 (A) entities described in paragraphs (1)
4 and (2) of section 4(c);

5 (B) Administrator of the National Oceanic
6 and Atmospheric Administration, acting
7 through the Administrator of the National Ma-
8 rine Fisheries Service; and

9 (C) Director of the Fish and Wildlife Serv-
10 ice;

11 (b) TRANSBOUNDARY POLLUTION.—

12 (1) NOTIFICATION OF SECRETARY OF STATE.—

13 If any salmon conservation area or salmon strong-
14 hold is determined by a Federal agency to be nega-
15 tively impacted by transboundary pollution or other
16 international actions originating in Canada, the head
17 of the Federal agency shall notify the Secretary of
18 State.

19 (2) ACTION REQUIRED.—Not later than 30
20 days after receiving a notification under paragraph
21 (1), the Secretary of State shall consult with rep-
22 resentatives from Canada to resolve the issue for
23 which the Secretary of State was notified under such
24 paragraph.

1 (3) REFERRAL TO INTERNATIONAL JOINT COM-
2 MISSION.—If the issue for which the Secretary of
3 State was notified under paragraph (1) is not re-
4 solved on a date that is 6 months after the date of
5 notification under such paragraph—

6 (A) the Secretary of State shall request to
7 submit a joint referral to the International
8 Joint Commission with Canada to research and
9 provide recommendations to resolve such issue;
10 and

11 (B) if a joint referral under subparagraph
12 (A) is not submitted, the Secretary of State
13 shall refer such issue to the International Joint
14 Commission.

15 **SEC. 6. WATERSHED MANAGEMENT AND RESTORATION**
16 **PROGRAM.**

17 Section 304 of the Healthy Forests Restoration Act
18 of 2003 (16 U.S.C. 6543) is amended by adding at the
19 end the following:

20 “(d) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There is authorized to be
22 appropriated to carry out this section and the pur-
23 pose described in paragraph (2), \$40,000,000 for
24 fiscal year 2023 and each of the 4 fiscal years there-
25 after.

1 “(2) PRESERVE SALMON HABITAT WATER-
2 SHEDS.—The Secretary shall use a portion of the
3 funds appropriated pursuant to paragraph (1) to
4 provide funds to programs that preserve watersheds
5 that are salmon habitats.

6 “(3) ADDITIONAL WATERSHED PERMISSIBLE.—
7 Notwithstanding any other provision of this section,
8 the Secretary may use funds appropriated under this
9 subsection to identify additional priority watersheds
10 in each National Forest if such watersheds, or por-
11 tions of, are determined by the Secretary to be salm-
12 on conservation areas or salmon strongholds (as
13 such terms are defined in section 3 of the Salmon
14 FISH Act).”.

15 **SEC. 7. GRANT PROGRAM.**

16 (a) AUTHORIZATION.—

17 (1) IN GENERAL.—The Director of the Fish
18 and Wildlife Service shall, in collaboration with the
19 Administrator of the National Oceanic and Atmos-
20 pheric Administration, carry out a grant program, to
21 be known as the “Salmon Conservation Area Grant
22 Program”, to make grants to carry out the purposes
23 described in subsection (b).

24 (2) DURATION.—A grant under this section
25 shall have a duration of not more than 5 years.

1 (3) PRIORITY.—In making grants under this
2 section, the administrator of the grant program shall
3 give priority to an eligible entity that demonstrates
4 that the eligible entity—

5 (A) will carry out a project under this sec-
6 tion on a salmon stronghold;

7 (B) has considered the durability of the
8 project and how the project contributes to the
9 long-term conservation of salmon;

10 (C) has coordinated with other stake-
11 holders to carry out the project; and

12 (D) has considered how the project will
13 work with other salmon restoration projects.

14 (4) MATCHING REQUIREMENT.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), each eligible entity that re-
17 ceives a grant under this section shall provide,
18 in cash or through in-kind contributions from
19 non-Federal sources, matching funds to carry
20 out the activities funded by the grant in an
21 amount equal to not less than 25 percent of the
22 cost of the activities.

23 (B) EXCEPTIONS.—

1 (i) INDIAN TRIBES.—Subparagraph
2 (A) shall not apply to an eligible entity
3 that is an Indian Tribe.

4 (ii) DISCRETIONARY EXCEPTIONS.—
5 The administrator of the grant program
6 under this section may reduce or waive the
7 matching requirement under subparagraph
8 (A) if—

9 (I) an eligible entity submits a
10 written request to the administrator
11 for a waiver with a justification as to
12 why the eligible entity cannot meet
13 the matching requirement; and

14 (II) the administrator determines
15 such justification is sufficient to waive
16 such requirement.

17 (5) ADMINISTRATION.—

18 (A) IN GENERAL.—The Director of the
19 Fish and Wildlife Service may enter into an
20 agreement to administer the grant program
21 with the National Fish and Wildlife Foundation
22 or a similar organization that offers grant ad-
23 ministration services.

24 (B) FUNDING.—If the Director of the Fish
25 and Wildlife Service enters into an agreement

1 under subparagraph (A), the organization se-
2 lected shall—

3 (i) for each fiscal year, receive
4 amounts made available to carry out this
5 section in an advance payment of the en-
6 tire amounts on October 1 of that fiscal
7 year, or as soon as practicable thereafter;

8 (ii) invest and reinvest those amounts
9 for the benefit of the grant program; and

10 (iii) otherwise administer the grant
11 program to support partnerships between
12 the public and private sectors in accord-
13 ance with this Act.

14 (C) REQUIREMENTS.—If the Secretary en-
15 ters into an agreement with the Foundation
16 under subparagraph (A), any amounts received
17 by the Foundation under this section shall be
18 subject to the National Fish and Wildlife Foun-
19 dation Establishment Act (16 U.S.C. 3701 et
20 seq.), excluding section 10(a) of that Act (16
21 U.S.C. 3709(a)).

22 (b) PURPOSES.—The purposes of the grants under
23 this section are—

24 (1) to protect or maintain salmon conservation
25 area or salmon stronghold features and projects that

1 are focused on conservation and restoration within
2 salmon conservation areas or salmon stronghold; and

3 (2) to carry out at least one of the following:

4 (A) To address factors threatening to limit
5 abundance, productivity, diversity, habitat qual-
6 ity, or other biological attributes important to
7 sustaining viable salmon populations.

8 (B) To restore or maintain ecological func-
9 tions and processes related to salmon produc-
10 tivity and diversity at watershed or subwater-
11 shed scales.

12 (C) To improve the resilience of salmon
13 populations in response to acute events such as
14 fires, landslides, and earthquakes.

15 (D) To improve the resilience of salmon
16 populations to climate change and prepare pop-
17 ulations for other future changes.

18 (E) To provide co-benefits to fish and wild-
19 life, in particular where salmon can be used as
20 indicator species for habitat quality.

21 (F) To implement focused, prioritized pro-
22 tection and restoration in watersheds.

23 (G) To improve conservation area or salm-
24 on stronghold resilience both downstream and
25 upstream.

1 (c) APPLICATIONS.—To be eligible to receive a grant
2 under this section, an eligible entity shall submit an appli-
3 cation to the administrator of the grant program at such
4 time, in such manner, and containing such information as
5 such administrator may require.

6 (d) USE OF FUNDS.—

7 (1) IN GENERAL.—An eligible entity that re-
8 ceives a grant under this section shall use the grant
9 funds to carry out activities consistent with the pur-
10 poses described in subsection (b), which include—

11 (A) subject to subsection (e), land acquisi-
12 tion, conservation easements, and land ex-
13 changes;

14 (B) purchasing mining rights;

15 (C) the improvement of fish passages and
16 removal of fish passage barriers and dams;

17 (D) habitat restoration and rehabilitation;

18 (E) outreach and local engagement;

19 (F) purchasing water rights related to
20 leasing, consumption, and use;

21 (G) groundwater recharge projects (includ-
22 ing ponds and forbearance);

23 (H) water efficiency projects;

1 (I) regional planning or development of a
2 focused, prioritized protection and restoration
3 action plan for the watershed; or

4 (J) monitoring and research, including
5 monitoring the status of salmon populations in
6 watersheds within conservation areas before and
7 after the removal of a dam.

8 (2) PROHIBITION.—None of the funds made
9 available under this section may be used—

10 (A) to carry out litigation; or

11 (B) carry out lethal intentional takings.

12 (e) ACQUISITION AND TRANSFER OF REAL PROP-
13 erty INTERESTS.—

14 (1) USE OF REAL PROPERTY.—No project that
15 will result in the acquisition by the Administrator of
16 the National Oceanic and Atmospheric Administra-
17 tion, the Director of the Fish and Wildlife Service,
18 a relevant Federal agency, or eligible entity of inter-
19 est in land, in whole or in part, may receive funds
20 under this section unless the project is consistent
21 with the purposes of this section.

22 (2) PRIVATE PROPERTY PROTECTION.—No
23 Federal funds made available to carry out this sec-
24 tion may be used to acquire any real property or any
25 interest in any real property without the written

1 consent of each owner of the property or interest in
2 property.

3 (3) TRANSFER OF REAL PROPERTY.—No land
4 or interest in land, acquired in whole or in part by
5 the Administrator of the National Oceanic and At-
6 mospheric Administration, the Director of the Fish
7 and Wildlife Service, a relevant Federal agency, or
8 eligible entity with funds made available under this
9 section may be transferred to a State, other public
10 agency, or other entity unless—

11 (A) the Administrator of the National Oee-
12 anic and Atmospheric Administration, the Na-
13 tional Fish and Wildlife Foundation, the rel-
14 evant Federal agency, or eligible entity with ju-
15 risdiction over such land determines that the
16 State, agency, or other entity is committed to
17 manage, in accordance with this section and the
18 purposes of this section, the property being
19 transferred; and

20 (B) the deed or other instrument of trans-
21 fer contains provisions for the reversion of the
22 title to the property to the United States if the
23 State, agency, or entity fails to manage the
24 property as a salmon conservation area or salm-

1 on stronghold in accordance with this section
2 and the purposes of this section.

3 (4) REQUIREMENT.—Any real property interest
4 conveyed under paragraph (3) shall be subject to
5 such terms and conditions as will ensure, to the
6 maximum extent practicable, that the interest will be
7 administered in accordance with this section and the
8 purposes of this section.

9 (f) REPORTS.—Not later than 5 years after the date
10 on which the first grant is made under this section, the
11 administrator of the grant program shall submit a report
12 to the Committee on Commerce, Science, and Transpor-
13 tation of the Senate and the Committee on Natural Re-
14 sources of the House of Representatives that includes—

15 (1) an evaluation of the results of each project
16 with recommendation on strategies and approaches
17 focusing on salmon conservation actions projected to
18 have the greatest positive impacts on abundance,
19 productivity, or diversity in salmon conservation
20 areas and salmon strongholds;

21 (2) conclusions and recommendations on appro-
22 priate metrics to measure and evaluate the efficacy
23 of salmon conservation efforts, including key indica-
24 tors for habitat and aquatic health and recommenda-
25 tions on quantifying such benefits;

1 (3) an analysis of the status and trends for wild
2 salmon abundance, diversity and productivity in each
3 salmon conservation area and salmon stronghold;

4 (4) an analysis of the social and economic ef-
5 fects resulting from salmon conservation area and
6 salmon stronghold conservation; and

7 (5) an assessment of threats imposed by chang-
8 ing ocean conditions on marine survival.

9 (g) ELIGIBLE ENTITY DEFINED.—In this section,
10 the term “eligible entity” means an Indian tribe, non-
11 governmental organization, State or local agency, or insti-
12 tution of higher education (as defined in section 101 of
13 the Higher Education Act of 1965 (20 U.S.C. 1001)) that
14 has approval to carry out a project with respect to a salm-
15 on conservation area or salmon stronghold under this sec-
16 tion from each entity that has jurisdiction over such salm-
17 on conservation area or salmon stronghold.

18 (h) APPROPRIATIONS.—There is authorized to be ap-
19 propriated to carry out this section \$50,000,000 for fiscal
20 year 2023 and each of the 4 fiscal years thereafter.

21 **SEC. 8. LIMITATIONS.**

22 Nothing in this Act, and no action to implement this
23 Act, may be construed—

24 (1) to create a reserved water right, express or
25 implied, in the United States for any purpose, or af-

1 fect the management or priority of water rights
2 under State law;

3 (2) to affect existing water rights under Federal
4 or State law;

5 (3) to affect any Federal or State law in exist-
6 ence on the date of enactment of this Act regarding
7 water quality or water quantity;

8 (4) to abrogate, abridge, affect, modify, super-
9 sede, or otherwise alter any right of an Indian tribe
10 under any applicable treaty, or Federal or tribal law
11 or regulation;

12 (5) to diminish or affect the ability of the Ad-
13 ministrator of the National Oceanic and Atmos-
14 pheric Administration, the Director of the Fish and
15 Wildlife Service, or head of a relevant Federal Agen-
16 cy to join the adjudication of rights to the use of
17 water pursuant to subsections (a), (b), or (c) of sec-
18 tion 208 of the Department of Justice Appropriation
19 Act, 1953 (43 U.S.C. 666); or

20 (6) to diminish or affect any program or activ-
21 ity by an Indian tribe that does not impact salmonid
22 habitat.