

110TH CONGRESS
2D SESSION

S. 3608

To establish a Salmon Stronghold Partnership program to protect wild Pacific salmon and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Ms. CANTWELL (for herself, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. SMITH, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a Salmon Stronghold Partnership program to protect wild Pacific salmon 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Pacific Salmon Stronghold Conservation Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; purposes.
- Sec. 3. Definitions.
- Sec. 4. Establishment of Salmon Stronghold Partnership Board.
- Sec. 5. Information and assessment.

- Sec. 6. Salmon stronghold watershed grants and technical assistance program.
- Sec. 7. Conservation of salmon strongholds on Federal land.
- Sec. 8. Conditions relating to salmon stronghold conservation projects.
- Sec. 9. Allocation of amounts.
- Sec. 10. Accountability and reporting.
- Sec. 11. Regulations.
- Sec. 12. Limitations.
- Sec. 13. Private property protection.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) salmon are a central part of the culture,
4 economy, and environment of Western North Amer-
5 ica;

6 (2) economic activities relating to salmon gen-
7 erate billions of dollars of economic activity and pro-
8 vide thousands of jobs;

9 (3) during the anticipated rapid environmental
10 change during the several decade period beginning
11 on the date of enactment of this Act, maintaining
12 key ecosystem processes and functions, population
13 abundance, and genetic integrity are vital to ensur-
14 ing the health of salmon populations;

15 (4) salmon strongholds provide critical produc-
16 tion zones for commercial and recreational fisheries;

17 (5) taking into consideration the frequency of
18 fisheries collapses during the period immediately
19 preceding the date of enactment of this Act, con-
20 serving core centers of abundance, productivity, and

1 diversity is vital to sustain salmon populations and
2 fisheries into the future;

3 (6) measures being undertaken as of the date
4 of enactment of this Act to recover threatened or en-
5 dangered salmon stocks are vital, but must be com-
6 plemented by identifying and sustaining core centers
7 of abundance, productivity, and diversity in the
8 healthiest remaining salmon ecosystems throughout
9 the salmon range; and

10 (7) greater coordination between public and pri-
11 vate actors can assist salmon strongholds by mar-
12 shaling and focusing resources on high priority pro-
13 tection and restoration actions.

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

15 (1) to expand Federal support for the protec-
16 tion and restoration of the healthiest remaining
17 salmon strongholds in North America to sustain core
18 centers of salmon abundance, productivity, and di-
19 versity in order to prevent decline of salmon popu-
20 lations—

21 (A) in the States of Washington, Idaho,
22 Oregon, and California, by focusing resources
23 on cooperative, incentive-based efforts to pro-
24 tect the roughly 20 percent of salmon habitat

1 that supports approximately $\frac{2}{3}$ of salmon abun-
2 dance; and

3 (B) in the State of Alaska, a regional
4 stronghold that produces over $\frac{1}{3}$ of all Pacific
5 salmon, by increasing resources available to
6 public and private organizations working coop-
7 eratively to protect regional core centers of
8 salmon abundance and diversity;

9 (2) to obtain long-term funding for implementa-
10 tion of salmon stronghold strategies, including the
11 bundling and delivery of incentive-based conservation
12 measures;

13 (3) to promote economic co-benefits associated
14 with healthy and restored salmon stronghold habitat,
15 including flood protection, recreation, water quantity
16 and quality, climate benefits, and other ecosystem
17 services; and

18 (4) to accelerate as applicable the implementa-
19 tion of recovery plans for salmon populations listed
20 as threatened or endangered under the Endangered
21 Species Act of 1973 (16 U.S.C. 1531 et seq.) within
22 salmon strongholds.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Assistant Administrator for the
3 National Marine Fisheries Service of the National
4 Oceanic and Atmospheric Administration.

5 (2) BOARD.—The term “Board” means the
6 Salmon Stronghold Partnership Board established
7 under section 4(a).

8 (3) CHARTER.—The term “Charter” means the
9 charter developed under section 4(g).

10 (4) DIRECTOR.—The term “Director” means
11 the Director of the United States Fish and Wildlife
12 Service.

13 (5) ECOSYSTEM SERVICES.—The term “eco-
14 system services” means an ecological benefit gen-
15 erated from a healthy, functioning ecosystem, includ-
16 ing clean water, pollutant filtration, regulation of
17 river flow, prevention of soil erosion, regulation of
18 climate, and fish production.

19 (6) PROGRAM.—The term “program” means
20 the salmon stronghold watershed grants and tech-
21 nical assistance program established under section
22 6(a).

23 (7) SALMON.—The term “salmon” means any
24 of the wild anadromous *Oncorhynchus* species in the
25 Western United States, including—

- 1 (A) chum salmon (*Oncorhynchus keta*);
2 (B) pink salmon (*Oncorhynchus*
3 *gorbuscha*);
4 (C) sockeye salmon (*Oncorhynchus nerka*);
5 (D) chinook salmon (*Oncorhynchus*
6 *tshawytscha*);
7 (E) coho salmon (*Oncorhynchus kisutch*);
8 and
9 (F) steelhead trout (*Oncorhynchus*
10 *mykiss*).

11 (8) SALMON STRONGHOLD.—The term “salmon
12 stronghold” means all or part of a watershed that
13 meets biological criteria for abundance, productivity,
14 diversity (life history and run timing), habitat qual-
15 ity, or other biological attributes important to sus-
16 taining viable populations of salmon throughout the
17 salmon range.

18 (9) SALMON STRONGHOLD PARTNERSHIP.—The
19 term “Salmon Stronghold Partnership” means a co-
20 operative, incentive-based, public-private partnership
21 between Federal, State, tribal, private, and non-gov-
22 ernmental organizations working across political
23 boundaries, government jurisdictions, and land own-
24 erships to identify and protect salmon strongholds.

1 (10) SECRETARY.—Except as otherwise pro-
2 vided, the term “Secretary” means the Secretary of
3 Commerce.

4 **SEC. 4. ESTABLISHMENT OF SALMON STRONGHOLD PART-**
5 **NERSHIP BOARD.**

6 (a) ESTABLISHMENT.—There is established a Board
7 to be known as the “Salmon Stronghold Partnership
8 Board”.

9 (b) MEMBERSHIP.—The members of the Board shall
10 include members from Federal, State, tribal, and non-gov-
11 ernmental organizations, and other entities with signifi-
12 cant resources regionally dedicated to protection of wild
13 salmon ecosystems, including—

14 (1) one representative from each of—

15 (A) the National Oceanic and Atmospheric
16 Administration;

17 (B) the United States Fish and Wildlife
18 Service;

19 (C) the Forest Service;

20 (D) the Environmental Protection Agency;

21 (E) the Bonneville Power Administration;

22 (F) the Bureau of Land Management; and

23 (G) the Northwest Power and Conservation
24 Council;

1 (2) State representatives from the Governor's
2 Office or the appropriate natural resource agencies,
3 as determined by the Board, from each of the States
4 of—

- 5 (A) Oregon;
- 6 (B) Washington;
- 7 (C) California;
- 8 (D) Idaho; and
- 9 (E) Alaska;

10 (3) three representatives from West Coast In-
11 dian tribes;

12 (4) one representative from each of 3 non-gov-
13 ernmental organizations selected by the Board; and

14 (5) any other members that the Board deter-
15 mines are appropriate.

16 (c) BOARD CONSULTATION.—The Board may seek
17 expertise from fisheries experts from appropriate agencies
18 or universities.

19 (d) MEETINGS.—

20 (1) FREQUENCY.—Not less frequently than 3
21 times each year, the Board shall hold Salmon
22 Stronghold Partnership meetings to provide opportu-
23 nities for input from a broader set of stakeholders.

24 (2) NOTICE.—Prior to each Salmon Stronghold
25 Partnership meeting, the Board shall give timely no-

1 tice of the meeting to the public and to the govern-
2 ment of each county in which a salmon stronghold
3 is identified by the Board.

4 (e) CHAIRPERSON.—The Board shall nominate and
5 select a Chairperson from among the members of the
6 Board.

7 (f) COMMITTEES.—The Board may establish stand-
8 ing or ad hoc committees, including a science advisory
9 committee.

10 (g) CHARTER.—The Board shall develop a written
11 Charter that—

12 (1) provides for the members of the Board de-
13 scribed in subsection (b);

14 (2) may be signed by a broad range of partners,
15 to reflect a shared understanding of the purposes,
16 intent, and governance framework of the Salmon
17 Stronghold Partnership; and

18 (3) shall include—

19 (A) a description of the process for identi-
20 fying salmon strongholds; and

21 (B) the process for reviewing and selecting
22 watershed grants under section 6, including—

23 (i) the number of years for which
24 grants can be issued;

25 (ii) the process for renewing grants;

- 1 (iii) a description of grant eligibility;
- 2 (iv) reporting requirements for se-
- 3 lected projects; and
- 4 (v) criteria for evaluation of the suc-
- 5 cess of a project.

6 (h) FEDERAL ADVISORY COMMITTEE ACT.—The
7 Federal Advisory Committee Act (5 U.S.C. App.) shall not
8 apply to the Board.

9 **SEC. 5. INFORMATION AND ASSESSMENT.**

10 The Administrator shall carry out specific informa-
11 tion and assessment functions associated with the network
12 of salmon strongholds, in coordination with other regional
13 salmon efforts, including—

14 (1) triennial assessment of status and trends in
15 network sites;

16 (2) geographic information system and mapping
17 support to facilitate conservation planning;

18 (3) development and application of models and
19 other tools to identify highest value conservation ac-
20 tions within salmon strongholds; and

21 (4) measurement of the effectiveness of the
22 Salmon Stronghold Partnership activities.

1 **SEC. 6. SALMON STRONGHOLD WATERSHED GRANTS AND**
2 **TECHNICAL ASSISTANCE PROGRAM.**

3 (a) IN GENERAL.—The Administrator, in consulta-
4 tion with the Director, shall establish a salmon stronghold
5 watershed grants and technical assistance program, as de-
6 scribed in this section.

7 (b) PURPOSE.—The purpose of the program shall be
8 to support salmon stronghold protection and restoration
9 activities, including—

10 (1) to fund the administration of the Salmon
11 Stronghold Partnership in carrying out the Charter;

12 (2) to encourage cooperation among the entities
13 represented on the Board, local authorities, and pri-
14 vate entities to establish a network of salmon strong-
15 holds, and assist locally in specific actions that sup-
16 port the Salmon Stronghold Partnership;

17 (3) to work with entities represented on the
18 Board—

19 (A) to develop strategies focusing on the
20 highest value salmon conservation actions in
21 salmon strongholds; and

22 (B) in addition to protection actions, in-
23 cluding voluntary acquisitions and easements,
24 to provide financial assistance to the Salmon
25 Stronghold Partnership to develop innovative fi-
26 nancial mechanisms to increase local economic

1 opportunities and resources for actions or prac-
2 tices that provide long-term or permanent pro-
3 tection and maintain key ecosystem services in
4 salmon strongholds, including—

5 (i) approaches to explore a payment
6 for ecosystem services model that values
7 and compensates individuals or groups for
8 actions taken, or not taken, and that pre-
9 serves, increases, or maintains key eco-
10 system services; and

11 (ii) carrying out several demonstration
12 projects designed for specific salmon
13 strongholds;

14 (4) to maintain a forum to share best practices
15 and approaches, employ consistent and comparable
16 metrics, and monitor, evaluate, and report regional
17 status and trends of salmon ecosystems in coordina-
18 tion with related regional and State efforts;

19 (5) to carry out activities and existing conserva-
20 tion programs in, and across, salmon strongholds on
21 a regional scale to achieve the goals of the Salmon
22 Stronghold Partnership;

23 (6) to develop and make information available
24 to the public pertaining to the Salmon Stronghold
25 Partnership; and

1 (7) to conduct education outreach to the public
2 to encourage increased stewardship of salmon
3 strongholds.

4 (c) SELECTION.—

5 (1) ADMINISTRATION AND SELECTION.—The
6 Administrator, in consultation with the Board, shall
7 establish a process to select grant applicants and ad-
8 minister the grants made under this section.

9 (2) CRITERIA FOR APPROVAL.—Subject to sub-
10 section (d), a project may be approved to receive a
11 grant under this section if—

12 (A) the project contributes to the protec-
13 tion and restoration of salmon;

14 (B) the project meets criteria regarding ge-
15 ographic and programmatic parameters for
16 strategic investments in Salmon Strongholds, as
17 identified and periodically revised by the Board
18 preceding each grant review process; and

19 (C) the project—

20 (i)(I) addresses a key factor limiting
21 or threatening to limit abundance, produc-
22 tivity, diversity, habitat quality, or other
23 biological attributes important to sus-
24 taining viable wild salmon populations
25 within a Salmon Stronghold; or

1 (II) a programmatic action that sup-
2 ports the Salmon Stronghold Partnership;

3 (ii) addresses major limiting factors to
4 healthy ecosystem processes or sustainable
5 fisheries management; and

6 (iii) has the potential for major con-
7 servation benefits and potentially export-
8 able results.

9 (d) ACQUISITION OF REAL PROPERTY INTERESTS.—

10 No project that will result in the acquisition by the Sec-
11 retary or the Secretary of the Interior of any land or inter-
12 est in land, in whole or in part, may receive funds under
13 this Act unless the project is consistent with the purposes
14 of this Act.

15 (e) PROJECT REPORTING.—Each grantee under this
16 section shall provide periodic reports to the Administrator
17 that include such information as the Administrator may
18 require to evaluate the progress and success of the project.

19 (f) STAFF.—Subject to the availability of appropria-
20 tions, the Administrator may hire such additional full-time
21 employees as are necessary to carry out this Act.

22 (g) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) GRANTS.—There is authorized to be appro-
24 priated to the Administrator, to be distributed by
25 the National Fish and Wildlife Foundation as a fis-

1 cal agent, to provide grants under this section
2 \$15,000,000 for each of fiscal years 2009 through
3 2013, to remain available until expended.

4 (2) TECHNICAL ASSISTANCE.—For each of fis-
5 cal years 2009 through 2013, there is authorized to
6 be appropriated to the Administrator an additional
7 \$300,000 to carry out this section and section 5, to
8 remain available until expended.

9 **SEC. 7. CONSERVATION OF SALMON STRONGHOLDS ON**
10 **FEDERAL LAND.**

11 The head of each Federal agency responsible for ac-
12 quiring, managing, or disposing of Federal land in salmon
13 strongholds shall, to the extent consistent with the mission
14 of the agency and existing statutory authorities, cooperate
15 with the Administrator and the Director to—

16 (1) conserve salmon strongholds; and

17 (2) effectively coordinate and streamline deliv-
18 ery of overlapping incentive-based programs affect-
19 ing salmon strongholds within the land of each agen-
20 cy.

21 **SEC. 8. CONDITIONS RELATING TO SALMON STRONGHOLD**
22 **CONSERVATION PROJECTS.**

23 (a) IN GENERAL.—No land or interest in land, ac-
24 quired in whole or in part by 1 or both of the Secretaries
25 with Federal funds made available under this Act to carry

1 out salmon stronghold conservation projects may be con-
2 veyed to a State, other public agency, or other entity un-
3 less—

4 (1) the Secretaries determine that the State,
5 agency, or other entity is committed to undertake
6 the management of the property being transferred in
7 accordance with this Act; and

8 (2) the deed or other instrument of transfer
9 contains provisions for the reversion of the title to
10 the property to the United States if the State, agen-
11 cy, or other entity fails to manage the property in
12 accordance with this Act.

13 (b) REQUIREMENT.—Any real property interest con-
14 veyed under this section shall be subject to such terms
15 and conditions as will ensure, to the maximum extent
16 practicable, that the interest will be administered for the
17 long-term conservation and management of the applicable
18 aquatic ecosystem and the fish and wildlife dependent on
19 that ecosystem.

20 **SEC. 9. ALLOCATION OF AMOUNTS.**

21 (a) FEDERAL SHARE.—

22 (1) NON-FEDERAL LAND.—For any fiscal year,
23 the Federal share of carrying out a salmon strong-
24 hold conservation project that receives funds under

1 section 6 on non-Federal land shall not exceed 50
2 percent of the costs of the project.

3 (2) FEDERAL LAND.—For any fiscal year, the
4 Federal share of carrying out a salmon stronghold
5 conservation project that receives funds under sec-
6 tion 6 on Federal land, including the acquisition of
7 inholdings, may be up to 100 percent of the costs of
8 the project.

9 (b) NON-FEDERAL SHARE.—

10 (1) IN GENERAL.—Subject to paragraph (2),
11 the non-Federal share of the cost of a project that
12 receives funds under section 6 may not be derived
13 from Federal grant programs, but may include in-
14 kind contributions and cash.

15 (2) BONNEVILLE POWER ADMINISTRATION.—
16 Any amounts provided by the Bonneville Power Ad-
17 ministration directly or through a grant to another
18 entity shall be credited toward the non-Federal share
19 of the cost of the project.

20 (c) PROVISION OF FUNDING.—In carrying out this
21 Act, the Secretary may—

22 (1) consistent with a recommendation of the
23 Board and notwithstanding sections 6304 and 6305
24 of title 31, United States Code, and the Federal Fi-
25 nancial Assistance Management Improvement Act of

1 1999 (31 U.S.C. 6101 note; Public Law 106–107),
2 enter into cooperative agreements, contracts, and
3 grants;

4 (2) notwithstanding any other provision of law,
5 apply for, accept, and use grants from any person to
6 carry out the purposes of this Act; and

7 (3) make funds available to any Federal agency
8 to be used by the agency to award financial assist-
9 ance for any salmon stronghold protection, restora-
10 tion, and enhancement project that the Secretary de-
11 termines to be consistent with this Act.

12 (d) DONATIONS.—

13 (1) IN GENERAL.—The Secretary may—

14 (A) enter into an agreement with any orga-
15 nization described in section 501(c)(3) of the
16 Internal Revenue Code of 1986 to authorize the
17 organization to carry out activities under this
18 Act; and

19 (B) accept donations of funds or services
20 for use in carrying out this Act.

21 (2) PROPERTY.—The Secretary of the Interior
22 may accept donations of property for use in carrying
23 out this Act.

24 (3) USE OF DONATIONS.—Donations accepted
25 under this section—

1 (A) shall be considered to be gifts or be-
2 quests to, or for the use of, the United States;
3 and

4 (B) may be used directly by the Secretary
5 (or, in the case of donated property under para-
6 graph (2), the Secretary of the Interior) or pro-
7 vided to other Federal agencies through inter-
8 agency agreements.

9 (e) INTERAGENCY FINANCING.—The Secretary may
10 participate in interagency financing, including receiving
11 appropriated funds from other agencies to carry out this
12 Act.

13 **SEC. 10. ACCOUNTABILITY AND REPORTING.**

14 Not less frequently than once every 3 years, the Ad-
15 ministrator and the Director shall jointly submit to Con-
16 gress a report describing the activities carried out under
17 this Act, including any legislative recommendations relat-
18 ing to the Salmon Stronghold Partnership.

19 **SEC. 11. REGULATIONS.**

20 The Secretary may promulgate regulations to carry
21 out this Act.

22 **SEC. 12. LIMITATIONS.**

23 Nothing in this 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 any water right in existence on the date of en-
2 actment of this Act;

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

6 (3) to affect the authority, jurisdiction, or re-
7 sponsibility of any agency or department of the
8 United States or of a State to manage, control, or
9 regulate fish and resident wildlife under a Federal or
10 State law (including regulations);

11 (4) to authorize the Secretary or the Secretary
12 of Interior to control or regulate hunting or fishing
13 under State law;

14 (5) to abrogate, abridge, affect, modify, super-
15 sede, or otherwise alter any right of a federally rec-
16 ognized Indian tribe under any law (including regu-
17 lations); or

18 (6) to diminish or affect the ability of the Sec-
19 retary or the Secretary of Interior to join the adju-
20 dication of rights to the use of water pursuant to
21 subsections (a), (b), or (c) of section 208 of the De-
22 partment of Justice Appropriation Act, 1953 (43
23 U.S.C. 666).

1 **SEC. 13. PRIVATE PROPERTY PROTECTION.**

2 No Federal funds made available to carry out this
3 Act may be used to acquire any real property or any inter-
4 est in any real property without the written consent of
5 the 1 or more owners of the property or interest in prop-
6 erty.

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