To encourage partnerships among public agencies and other interested parties to promote fish conservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. CRAPO (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To encourage partnerships among public agencies and other interested parties to promote fish conservation, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Fish Habitat Conservation Act of 2019”.

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SEC. 2. NATIONAL FISH HABITAT CONSERVATION THROUGH PARTNERSHIPS.

(a) PURPOSE.—The purpose of this section is to encourage partnerships among public agencies and other interested parties to promote fish conservation—

(1) to achieve measurable habitat conservation results through strategic actions of Fish Habitat Partnerships that lead to better fish habitat conditions and increased fishing opportunities by—

(A) improving ecological conditions;

(B) restoring natural processes; or

(C) preventing the decline of intact and healthy systems;

(2) to establish a consensus set of national conservation strategies as a framework to guide future actions and investment by Fish Habitat Partnerships;

(3) to broaden the community of support for fish habitat conservation by—

(A) increasing fishing opportunities;

(B) fostering the participation of local communities, especially young people in local communities, in conservation activities; and

(C) raising public awareness of the role healthy fish habitat play in the quality of life and economic well-being of local communities;
(4) to fill gaps in the National Fish Habitat Assessment and the associated database of the National Fish Habitat Assessment—

(A) to empower strategic conservation actions supported by broadly available scientific information; and

(B) to integrate socioeconomic data in the analysis to improve the lives of humans in a manner consistent with fish habitat conservation goals; and

(5) to communicate to the public and conservation partners—

(A) the conservation outcomes produced collectively by Fish Habitat Partnerships; and

(B) new opportunities and voluntary approaches for conserving fish habitat.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.
(2) BOARD.—The term “Board” means the National Fish Habitat Board established by subsection (c)(1)(A).

(3) DIRECTOR.—The term “Director” means the Director of the United States Fish and Wildlife Service.

(4) EPA ASSISTANT ADMINISTRATOR.—The term “EPA Assistant Administrator” means the Assistant Administrator for Water of the Environmental Protection Agency.

(5) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(6) NOAA ASSISTANT ADMINISTRATOR.—The term “NOAA Assistant Administrator” means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(7) PARTNERSHIP.—The term “Partnership” means a self-governed entity designated by Congress as a Fish Habitat Partnership under subsection (d)(6) after a recommendation by the Board under subsection (d)(1).
(8) REAL PROPERTY INTEREST.—The term “real property interest” means an ownership interest in—

(A) land; or

(B) water (including water rights).

(9) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(10) STATE.—The term “State” means each of the several States.

(11) STATE AGENCY.—The term “State agency” means—

(A) the fish and wildlife agency of a State; and

(B) any department or division of a department or agency of a State that manages in the public trust the inland or marine fishery resources or sustains the habitat for those fishery resources of the State pursuant to State law or the constitution of the State.

(c) NATIONAL FISH HABITAT BOARD.—

(1) ESTABLISHMENT.—

(A) FISH HABITAT BOARD.—There is established a board, to be known as the “National Fish Habitat Board”, whose duties are—
(i) to promote, oversee, and coordinate the implementation of this section;

(ii) to establish national goals and priorities for fish habitat conservation;

(iii) to recommend to Congress entities for designation as Partnerships; and

(iv) to review and make recommendations regarding fish habitat conservation projects.

(B) MEMBERSHIP.—The Board shall be composed of 25 members, of whom—

(i) 1 shall be a representative of the Department of the Interior;

(ii) 1 shall be a representative of the United States Geological Survey;

(iii) 1 shall be a representative of the Department of Commerce;

(iv) 1 shall be a representative of the Department of Agriculture;

(v) 1 shall be a representative of the Association of Fish and Wildlife Agencies;

(vi) 4 shall be representatives of State agencies, 1 of whom shall be nominated by a regional association of fish and wildlife agencies from each of the Northeast,
Southeast, Midwest, and Western regions of the United States;

(vii) I shall be a representative of either—

(I) Indian tribes in the State of Alaska; or

(II) Indian tribes in States other than the State of Alaska;

(viii) I shall be a representative of either—

(I) the Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852); or

(II) a representative of the Marine Fisheries Commissions, which is composed of—

(aa) the Atlantic States Marine Fisheries Commission;

(bb) the Gulf States Marine Fisheries Commission; and

(ee) the Pacific States Marine Fisheries Commission;
(ix) I shall be a representative of the Sportfishing and Boating Partnership Council;

(x) 7 shall be representatives selected from each of—

(I) the recreational sportfishing industry;

(II) the commercial fishing industry;

(III) marine recreational anglers;

(IV) freshwater recreational anglers;

(V) habitat conservation organizations; and

(VI) science-based fishery organizations;

(xi) I shall be a representative of a national private landowner organization;

(xii) I shall be a representative of an agricultural production organization;

(xiii) I shall be a representative of local government interests involved in fish habitat restoration;
(xiv) 2 shall be representatives from different sectors of corporate industries, which may include—

(I) natural resource commodity interests, such as petroleum or mineral extraction;

(II) natural resource user industries; and

(III) industries with an interest in fish and fish habitat conservation; and

(xv) 1 shall be a leadership private sector or landowner representative of an active partnership.

(C) COMPENSATION.—A member of the Board shall serve without compensation.

(D) TRAVEL EXPENSES.—A member of the Board may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(2) APPOINTMENT AND TERMS.—
(A) IN GENERAL.—Except as otherwise provided in this subsection, a member of the Board described in any of clauses (vi) through (xiv) of paragraph (1)(B) shall serve for a term of 3 years.

(B) INITIAL BOARD MEMBERSHIP.—

(i) IN GENERAL.—The initial Board will consist of representatives as described in clauses (i) through (vi) of paragraph (1)(B).

(ii) REMAINING MEMBERS.—Not later than 60 days after the date of enactment of this Act, the representatives of the initial Board pursuant to clause (i) shall appoint the remaining members of the Board described in clauses (viii) through (xiv) of paragraph (1)(B).

(iii) TRIBAL REPRESENTATIVES.—Not later than 60 days after the enactment of this Act, the Secretary shall provide to the Board a recommendation of not fewer than 3 Tribal representatives, from which the Board shall appoint 1 representative pursuant to clause (vii) of paragraph (1)(B).
(C) Transitional Terms.—Of the members described in paragraph (1)(B)(x) initially appointed to the Board—

(i) 2 shall be appointed for a term of 1 year;

(ii) 2 shall be appointed for a term of 2 years; and

(iii) 3 shall be appointed for a term of 3 years.

(D) Vacancies.—

(i) In General.—A vacancy of a member of the Board described in any of clauses (viii) through (xiv) of paragraph (1)(B) shall be filled by an appointment made by the remaining members of the Board.

(ii) Tribal Representatives.—Following a vacancy of a member of the Board described in clause (vii) of paragraph (1)(B), the Secretary shall recommend to the Board a list of not fewer than 3 Tribal representatives, from which the remaining members of the Board shall appoint a representative to fill the vacancy.
(E) Continuation of Service.—An individual whose term of service as a member of the Board expires may continue to serve on the Board until a successor is appointed.

(F) Removal.—If a member of the Board described in any of clauses (viii) through (xiv) of paragraph (1)(B) misses 3 consecutive regularly scheduled Board meetings, the members of the Board may—

(i) vote to remove that member; and

(ii) appoint another individual in accordance with subparagraph (D).

(3) Chairperson.—

(A) In General.—The representative of the Association of Fish and Wildlife Agencies appointed pursuant to paragraph (1)(B)(v) shall serve as Chairperson of the Board.

(B) Term.—The Chairperson of the Board shall serve for a term of 3 years.

(4) Meetings.—

(A) In General.—The Board shall meet—

(i) at the call of the Chairperson; but

(ii) not less frequently than twice each calendar year.
(B) Public access.—All meetings of the Board shall be open to the public.

(5) Procedures.—

(A) In general.—The Board shall establish procedures to carry out the business of the Board, including—

(i) a requirement that a quorum of the members of the Board be present to transact business;

(ii) a requirement that no recommendations may be adopted by the Board, except by the vote of 2/3 of all members;

(iii) procedures for establishing national goals and priorities for fish habitat conservation for the purposes of this section;

(iv) procedures for Designating Partnerships under subsection (d); and

(v) procedures for reviewing, evaluating, and making recommendations regarding fish habitat conservation projects.

(B) Quorum.—A majority of the members of the Board shall constitute a quorum.

(d) Fish Habitat Partnerships.—
(1) **Authority to Recommend.**—The Board may recommend to Congress the designation of Fish Habitat Partnerships in accordance with this subsection.

(2) **Purposes.**—The purposes of a Partnership shall be—

(A) to work with other regional habitat conservation programs to promote cooperation and coordination to enhance fish and fish habitats;

(B) to engage local and regional communities to build support for fish habitat conservation;

(C) to involve diverse groups of public and private partners;

(D) to develop collaboratively a strategic vision and achievable implementation plan that is scientifically sound;

(E) to leverage funding from sources that support local and regional partnerships;

(F) to use adaptive management principles, including evaluation of project success and functionality;

(G) to develop appropriate local or regional habitat evaluation and assessment measures.
and criteria that are compatible with national habitat condition measures; and

(H) to implement local and regional priority projects that improve conditions for fish and fish habitat.

(3) CRITERIA FOR DESIGNATION.—An entity seeking to be designated by Congress as a Partnership shall—

(A) submit to the Board an application at such time, in such manner, and containing such information as the Board may reasonably require; and

(B) demonstrate to the Board that the entity has—

(i) a focus on promoting the health of important fish and fish habitats;

(ii) an ability to coordinate the implementation of priority projects that support the goals and national priorities set by the Board that are within the Partnership boundary;

(iii) a self-governance structure that supports the implementation of strategic priorities for fish habitat;
(iv) the ability to develop local and regional relationships with a broad range of entities to further strategic priorities for fish and fish habitat;

(v) a strategic plan that details required investments for fish habitat conservation that addresses the strategic fish habitat priorities of the Partnership and supports and meets the strategic priorities of the Board;

(vi) the ability to develop and implement fish habitat conservation projects that address strategic priorities of the Partnership and the Board; and

(vii) the ability to develop fish habitat conservation priorities based on sound science and data, the ability to measure the effectiveness of fish habitat projects of the Partnership, and a clear plan as to how Partnership science and data components will be integrated with the overall Board science and data effort.

(4) Requirements for Recommendation to Congress.—The Board may recommend to Congress for designation an application for a Partner-
ship submitted under paragraph (3)(A) if the Board determines that the applicant—

(A) meets the criteria described in paragraph (3)(B);

(B) identifies representatives to provide support and technical assistance to the Partnership from a diverse group of public and private partners, which may include State or local governments, nonprofit entities, Indian tribes, and private individuals, that are focused on conservation of fish habitats to achieve results across jurisdictional boundaries on public and private land;

(C) is organized to promote the health of important fish species and important fish habitats, including reservoirs, natural lakes, coastal and marine environments, and estuaries;

(D) identifies strategic fish and fish habitat priorities for the Partnership area in the form of geographical focus areas or key stressors or impairments to facilitate strategic planning and decision making;

(E) is able to address issues and priorities on a nationally significant scale;

(F) includes a governance structure that—
(i) reflects the range of all partners;

and

(ii) promotes joint strategic planning

and decision making by the applicant;

(G) demonstrates completion of, or significant progress toward the development of, a strategic plan to address the decline in fish populations, rather than simply treating symptoms, in accordance with the goals and national priorities established by the Board; and

(H) promotes collaboration in developing a strategic vision and implementation program that is scientifically sound and achievable.

(5) REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than February 1 of the first fiscal year beginning after the date of enactment of this Act and each February 1 thereafter, the Board shall develop and submit to the appropriate congressional committees an annual report, to be entitled “Report to Congress on Future Fish Habitat Partnerships and Modifications”, that—

(i) identifies any entity that—

(I) meets the requirements described in paragraph (4); and
(II) the Board recommends for designation as a Partnership;

(ii) describes any proposed modifications to a Partnership previously designated by Congress under paragraph (6);

(iii) with respect to each entity recommended for designation as a Partnership, describes, to the maximum extent practicable—

(I) the purpose of the recommended Partnership; and

(II) how the recommended Partnership fulfills the requirements described in paragraph (4).

(B) PUBLIC AVAILABILITY; NOTIFICATION.—The Board shall—

(i) make the report publicly available, including on the internet; and

(ii) provide to the appropriate congressional committees and the State agency of any State included in a recommended Partnership area written notification of the public availability of the report.
(6) **Designation or Modification of Partnership.**—Congress shall have the sole authority to designate or modify a Partnership.

(7) **Existing Partnerships.**—

(A) **Designation Review.**—Not later than 5 years after the date of enactment of this Act, any fish habitat partnership receiving Federal funds as of the date of enactment of this Act shall be subject to a designation review by Congress in which Congress shall have the opportunity to designate the partnership under paragraph (6).

(B) **Ineligibility for Federal Funds.**—A partnership referred to in subparagraph (A) that Congress does not designate as described in that subparagraph shall be ineligible to receive Federal funds under this section.

(c) **Fish Habitat Conservation Projects.**—

(1) **Submission to Board.**—Not later than March 31 of each calendar year, each Partnership shall submit to the Board a list of priority fish habitat conservation projects recommended by the Partnership for annual funding under this section.
(2) **Recommendations by board.**—Not later than July 1 of each calendar year, the Board shall submit to the Secretary a priority list of fish habitat conservation projects that includes the description, including estimated costs, of each project that the Board recommends that the Secretary approve and fund under this section for the following fiscal year.

(3) **Criteria for project selection.**—The Board shall select each fish habitat conservation project to be recommended to the Secretary under paragraph (2) after taking into consideration, at a minimum, the following information:

(A) A recommendation of the Partnership that is, or will be, participating actively in implementing the fish habitat conservation project.

(B) The capabilities and experience of project proponents to implement successfully the proposed project.

(C) The extent to which the fish habitat conservation project—

(i) fulfills a local or regional priority that is directly linked to the strategic plan of the Partnership and is consistent with the purpose of this section;
(ii) addresses the national priorities established by the Board;

(iii) is supported by the findings of the Habitat Assessment of the Partnership or the Board, and aligns or is compatible with other conservation plans;

(iv) identifies appropriate monitoring and evaluation measures and criteria that are compatible with national measures;

(v) provides a well-defined budget linked to deliverables and outcomes;

(vi) leverages other funds to implement the project;

(vii) addresses the causes and processes behind the decline of fish or fish habitats; and

(viii) includes an outreach or education component that includes the local or regional community.

(D) The availability of sufficient non-Federal funds to match Federal contributions for the fish habitat conservation project, as required by paragraph (5).

(E) The extent to which the local or regional fish habitat conservation project—
(i) will increase fish populations in a manner that leads to recreational fishing opportunities for the public;

(ii) will be carried out through a cooperative agreement among Federal, State, and local governments, Indian tribes, and private entities;

(iii) increases public access to land or water for fish and wildlife-dependent recreational opportunities;

(iv) advances the conservation of fish and wildlife species that have been identified by the States as species of greatest conservation need;

(v) where appropriate, advances the conservation of fish and fish habitats under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and other relevant Federal law and State wildlife action plans; and

(vi) promotes strong and healthy fish habitats so that desired biological communities are able to persist and adapt.

(F) The substantiality of the character and design of the fish habitat conservation project.
(4) Limitations.—

(A) Requirements for evaluation.—

No fish habitat conservation project may be recommended by the Board under paragraph (2) or provided financial assistance under this section unless the fish habitat conservation project includes an evaluation plan designed using applicable Board guidance—

(i) to appropriately assess the biological, ecological, or other results of the habitat protection, restoration, or enhancement activities carried out using the assistance;

(ii) to reflect appropriate changes to the fish habitat conservation project if the assessment substantiates that the fish habitat conservation project objectives are not being met;

(iii) to identify improvements to existing fish populations, recreational fishing opportunities and the overall economic benefits for the local community of the fish habitat conservation project; and

(iv) to require the submission to the Board of a report describing the findings of the assessment.
(B) Acquisition authorities.—

(i) In general.—A State, local government, or other non-Federal entity is eligible to receive funds for the acquisition of real property from willing sellers under this section if the acquisition ensures 1 of—

(I) public access for compatible fish and wildlife-dependent recreation;

or

(II) a scientifically based, direct enhancement to the health of fish and fish populations, as determined by the Board.

(ii) State agency approval.—

(I) In general.—All real property interest acquisition projects funded under this section are required to be approved by the State agency in the State in which the project is occurring.

(II) Prohibition.—The Board may not recommend, and the Secretary may not provide any funding for, any real property interest acquisi-
tion that has not been approved by the State agency.

(iii) **ASSESSMENT OF OTHER AUTHORITIES.**—The Fish Habitat Partnership shall conduct a project assessment, submitted with the funding request and approved by the Board, to demonstrate all other Federal, State, and local authorities for the acquisition of real property have been exhausted.

(iv) **RESTRICTIONS.**—A real property interest may not be acquired pursuant to a fish habitat conservation project by a State, local government, or other non-Federal entity, unless—

(I) the owner of the real property authorizes the State, local government, or other non-Federal entity to acquire the real property; and

(II) the Secretary and the Board determine that the State, local government, or other non-Federal entity would benefit from undertaking the management of the real property being acquired because that is in ac-
cordance with the goals of a partnership.

(5) NON-FEDERAL CONTRIBUTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no fish habitat conservation project may be recommended by the Board under paragraph (2) or provided financial assistance under this section unless at least 50 percent of the cost of the fish habitat conservation project will be funded with non-Federal funds.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of a fish habitat conservation project—

(i) may not be derived from another Federal grant program; but

(ii) may include in-kind contributions and cash.

(C) SPECIAL RULE FOR INDIAN TRIBES.—Notwithstanding subparagraph (A) or any other provision of law, any funds made available to an Indian tribe pursuant to this section may be considered to be non-Federal funds for the purpose of subparagraph (A).

(6) APPROVAL.—
(A) In general.—Not later than 90 days after the date of receipt of the recommended priority list of fish habitat conservation projects under paragraph (2), subject to the limitations of paragraph (4), and based, to the maximum extent practicable, on the criteria described in paragraph (3), the Secretary, after consulting with the Secretary of Commerce on marine or estuarine projects, shall approve or reject any fish habitat conservation project recommended by the Board.

(B) Funding.—If the Secretary approves a fish habitat conservation project under subparagraph (A), the Secretary shall use amounts made available to carry out this section to provide funds to carry out the fish habitat conservation project.

(C) Notification.—If the Secretary rejects any fish habitat conservation project recommended by the Board under paragraph (2), not later than 90 days after the date of receipt of the recommendation, the Secretary shall provide to the Board, the appropriate Partnership, and the appropriate congressional committees a written statement of the reasons that the Sec-
retary rejected the fish habitat conservation project.

(f) TECHNICAL AND SCIENTIFIC ASSISTANCE.—

(1) IN GENERAL.—The Director, the NOAA Assistant Administrator, the EPA Assistant Administrator, and the Director of the United States Geological Survey, in coordination with the Forest Service and other appropriate Federal departments and agencies, may provide scientific and technical assistance to the Partnerships, participants in fish habitat conservation projects, and the Board.

(2) INCLUSIONS.—Scientific and technical assistance provided pursuant to paragraph (1) may include—

(A) providing technical and scientific assistance to States, Indian tribes, regions, local communities, and nongovernmental organizations in the development and implementation of Partnerships;

(B) providing technical and scientific assistance to Partnerships for habitat assessment, strategic planning, and prioritization;

(C) supporting the development and implementation of fish habitat conservation projects
that are identified as high priorities by Partnerships and the Board;

(D) supporting and providing recommendations regarding the development of science-based monitoring and assessment approaches for implementation through Partnerships;

(E) supporting and providing recommendations for a national fish habitat assessment;

(F) ensuring the availability of experts to assist in conducting scientifically based evaluation and reporting of the results of fish habitat conservation projects; and

(G) providing resources to secure state agency scientific and technical assistance to support Partnerships, participants in fish habitat conservation projects, and the Board.

(g) Coordination With States and Indian Tribes.—The Secretary shall provide a notice to, and cooperate with, the appropriate State agency or Tribal agency, as applicable, of each State and Indian tribe within the boundaries of which an activity is planned to be carried out pursuant to this section, including notification, by not later than 30 days before the date on which the activity is implemented.
(h) **INTERAGENCY OPERATIONAL PLAN.**—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Director, in cooperation with the NOAA Assistant Administrator, the EPA Assistant Administrator, the Director of the United States Geological Survey, and the heads of other appropriate Federal departments and agencies (including at a minimum, those agencies represented on the Board) shall develop an interagency operational plan that describes—

(1) the functional, operational, technical, scientific, and general staff, administrative, and material needs for the implementation of this section; and

(2) any interagency agreements between or among Federal departments and agencies to address those needs.

(i) **ACCOUNTABILITY AND REPORTING.**—

(1) **REPORTING.**—

(A) **IN GENERAL.**—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Board shall submit to the appropriate congressional committees a report describing the progress of this section.

(B) **CONTENTS.**—Each report submitted under subparagraph (A) shall include—
(i) an estimate of the number of acres, stream miles, or acre-feet, or other suitable measures of fish habitat, that was maintained or improved by partnerships of Federal, State, or local governments, Indian tribes, or other entities in the United States during the 5-year period ending on the date of submission of the report;

(ii) a description of the public access to fish habitats established or improved during that 5-year period;

(iii) a description of the improved opportunities for public recreational fishing; and

(iv) an assessment of the status of fish habitat conservation projects carried out with funds provided under this section during that period, disaggregated by year, including—

(I) a description of the fish habitat conservation projects recommended by the Board under subsection (e)(2);

(II) a description of each fish habitat conservation project approved
by the Secretary under subsection (e)(6), in order of priority for funding;

(III) a justification for—

(a) the approval of each fish habitat conservation project;
and

(b) the order of priority for funding of each fish habitat conservation project;

(IV) a justification for any rejection of a fish habitat conservation project recommended by the Board under subsection (e)(2) that was based on a factor other than the criteria described in subsection (e)(3); and

(V) an accounting of expenditures by Federal, State, or local governments, Indian tribes, or other entities to carry out fish habitat conservation projects.

(2) STATUS AND TRENDS REPORT.—Not later than December 31, 2020, and every 5 years thereafter, the Board shall submit to the appropriate congressional committees a report that includes—
(A) a status of all Partnerships designated under this section;

(B) a description of the status of fish habitats in the United States as identified by established Partnerships; and

(C) enhancements or reductions in public access as a result of—

(i) the activities of the Partnerships;

or

(ii) any other activities carried out pursuant to this section.

(j) Effect of Section.—

(1) Water rights.—Nothing in this section—

(A) establishes any express or implied reserved water right in the United States for any purpose;

(B) affects any water right in existence on the date of enactment of this Act;

(C) preempts or affects any State water law or interstate compact governing water; or

(D) affects any Federal or State law in existence on the date of enactment of the Act regarding water quality or water quantity.

(2) Authority to acquire water rights or rights to property.—Under this section, only a
State, local government, or other non-Federal entity may acquire, under State law, water rights or rights to property.

(3) **State Authority.**—Nothing in this section—

(A) affects the authority, jurisdiction, or responsibility of a State to manage, control, or regulate fish and wildlife under the laws and regulations of the State; or

(B) authorizes the Secretary to control or regulate within a State the fishing or hunting of fish and wildlife.

(4) **Effect on Indian Tribes.**—Nothing in this section abrogates, abridges, affects, modifies, supersedes, or alters any right of an Indian tribe recognized by treaty or any other means, including—

(A) an agreement between the Indian tribe and the United States;

(B) Federal law (including regulations);

(C) an Executive order; or

(D) a judicial decree.

(5) **Adjudication of Water Rights.**—Nothing in this section diminishes or affects the ability of the Secretary to join an adjudication of rights to
the use of water pursuant to subsection (a), (b), or
(e) of section 208 of the Department of Justice Ap-

(6) DEPARTMENT OF COMMERCE AUTHORITY.—Nothing in this section affects the authority,
jurisdiction, or responsibility of the Department of
Commerce to manage, control, or regulate fish or
fish habitats under the Magnuson-Stevens Fishery
Conservation and Management Act (16 U.S.C. 1801
et seq.).

(7) EFFECT ON OTHER AUTHORITIES.—

(A) PRIVATE PROPERTY PROTECTION.—
Nothing in this section permits the use of funds
made available to carry out this section to ac-
quire real property or a real property interest
without the written consent of each owner of
the real property or real property interest.

(B) MITIGATION.—Nothing in this section
permits the use of funds made available to
carry out this section for fish and wildlife miti-
gation purposes under—

(i) the Federal Water Pollution Con-
trol Act (33 U.S.C. 1251 et seq.);

(ii) the Fish and Wildlife Coordina-
tion Act (16 U.S.C. 661 et seq.);
(iii) the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4082); or
(iv) any other Federal law or court settlement.

(C) CLEAN WATER ACT.—Nothing in this section affects any provision of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including any definition in that Act.

(k) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

(1) the Board; or
(2) any Partnership.

(l) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) FISH HABITAT CONSERVATION PROJECTS.—There is authorized to be appropriated to the Secretary $7,200,000 for each of fiscal years 2020 through 2024 to provide funds for fish habitat conservation projects approved under subsection (e)(6), of which 5 percent shall be made available for each fiscal year for projects carried out by Indian tribes.
(B) Administrative and Planning Expenses.—There is authorized to be appropriated to the Secretary for each of fiscal years 2020 through 2024 an amount equal to 5 percent of the amount appropriated for the applicable fiscal year pursuant to subparagraph (A)—

(i) for administrative and planning expenses; and

(ii) to carry out subsection (i).

(C) Technical and Scientific Assistance.—There is authorized to be appropriated for each of fiscal years 2020 through 2024 to carry out, and provide technical and scientific assistance under, subsection (f)—

(i) $400,000 to the Secretary for use by the United States Fish and Wildlife Service;

(ii) $400,000 to the NOAA Assistant Administrator for use by the National Oceanic and Atmospheric Administration;

(iii) $400,000 to the EPA Assistant Administrator for use by the Environmental Protection Agency;
(iv) $400,000 to the Secretary for use by the United States Geological Survey; and
(v) $400,000 to the Secretary of Agriculture for use by the Forest Service.

(2) AGREEMENTS AND GRANTS.—The Secretary may—

(A) on the recommendation of the Board, and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106–107), enter into a grant agreement, cooperative agreement, or contract with a Partnership or other entity for a fish habitat conservation project or restoration or enhancement project;

(B) apply for, accept, and use a grant from any individual or entity to carry out the purposes of this section; and

(C) make funds available to any Federal department or agency for use by that department or agency to provide grants for any fish habitat protection project, restoration project,
or enhancement project that the Secretary determines to be consistent with this section.

(3) DONATIONS.—

(A) IN GENERAL.—The Secretary may—

(i) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code to solicit private donations to carry out the purposes of this section; and

(ii) accept donations of funds, property, and services to carry out the purposes of this section.

(B) TREATMENT.—A donation accepted under this section—

(i) shall be considered to be a gift or bequest to, or otherwise for the use of, the United States; and

(ii) may be—

(I) used directly by the Secretary; or

(II) provided to another Federal department or agency through an interagency agreement.
(m) **Prohibition Against Implementation of Regulatory Authority by Federal Agencies.**—Any Partnership designated under this section—

(1) shall be for the sole purpose of promoting fish conservation; and

(2) shall not be used to implement any regulatory authority of any Federal agency.