

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3025

To amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect and restore the water quality of the Columbia River Basin, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2010

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to provide assistance for programs and activities to protect and restore the water quality of the Columbia River Basin, 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 “Columbia River Res-

5       toration Act of 2010”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) The Columbia River is the largest river in  
2 the Pacific Northwest and the fourth largest river in  
3 the United States by volume. The river is 1,243  
4 miles long, and its drainage basin includes 259,000  
5 square miles, extending into 7 States and British  
6 Columbia, Canada, and including all or part of 5 na-  
7 tional parks, the Columbia River Gorge National  
8 Scenic Area, and the Hells Canyon National Recre-  
9 ation Area.

10           (2) The Columbia River Basin and its tribu-  
11 taries provide significant ecological and economic  
12 benefits to the Pacific Northwest and the entire  
13 United States. Traditionally, the Columbia River  
14 Basin and its tributaries were the largest salmon  
15 producing river system in the world, with annual re-  
16 turns peaking at as many as 30 million fish. The  
17 Columbia River drainage basin includes more than 6  
18 million acres of irrigated agricultural land, and its  
19 14 hydroelectric dams, combined with additional  
20 dams on its tributaries, produce more hydroelectric  
21 power than any other North American river.

22           (3) The Lower Columbia River Estuary  
23 stretches 146 miles from the Bonneville Dam to the  
24 mouth of the Pacific Ocean, and much of this area  
25 is degraded. Polychlorinated biphenyls (PCBs) in

1 salmon tissue and polycyclic aromatic hydrocarbons  
2 (PAHs) in salmon prey exceed estimated thresholds  
3 for delayed mortality, increased disease suscepti-  
4 bility, and reduced growth. Legacy contaminants  
5 (DDT and PCBs) banned in the 1970s are still de-  
6 tected in river water, sediments, and juvenile Chi-  
7 nook salmon. Several pesticides have been detected,  
8 including atrazine and simazine, which can affect  
9 salmon behavior or act as hormone disruptors.  
10 Emerging contaminants, such as hormone disruptors  
11 from pharmaceutical and personal care products,  
12 have been found in river water and juvenile male  
13 salmon. These contaminants may impair salmon  
14 growth, health, and reproduction.

15 (4) The Middle and Upper Columbia River  
16 Basin includes 1,050 miles of the mainstem Colum-  
17 bia River upstream of the Bonneville Dam, including  
18 the 1,040 miles of its largest tributary, the Snake  
19 River, and all of the tributaries to both rivers. The  
20 Environmental Protection Agency's (EPA's) Colum-  
21 bia River Basin Fish Contaminant Survey detected  
22 the presence of 92 priority pollutants, including  
23 PCBs, dioxins, furans, arsenic, mercury, and DDE  
24 (a breakdown product of DDT), in fish that are con-  
25 sumed by the Confederated Tribes of the Warm

1 Springs, the Confederated Tribes and Bands of the  
2 Yakama Nation, the Confederated Tribes of the  
3 Umatilla Indian Reservation, and the Nez Perce  
4 Tribe, as well as by other people consuming fish  
5 throughout the Columbia River Basin. A fish con-  
6 sumption survey by the Columbia River Intertribal  
7 Fish Commission showed that tribal members were  
8 eating 6 to 11 times more fish than EPA's esti-  
9 mated national average. The nuclear and toxic con-  
10 tamination at the Hanford Nuclear Reservation pre-  
11 sents an ongoing risk of contamination in the Middle  
12 Columbia Basin. Sampling of sediments by the EPA  
13 in 2004 documented widespread presence of toxic  
14 flame retardants known as polyrominated diphenyl  
15 ethers.

16 (5) Contamination of the Middle and Upper Co-  
17 lumbia River Basin has a direct impact on water  
18 quality and habitat quality in the Lower Columbia  
19 River Estuary. Investments in habitat restoration  
20 and toxics reduction in the Middle and Upper Co-  
21 lumbia River Basin can have significant benefits for  
22 fish and wildlife throughout the entire basin.

23 (6) Together with the Governors of Oregon and  
24 Washington, the EPA created the Lower Columbia  
25 River Estuary Partnership (Estuary Partnership) in

1 1995 to provide regional coordination to focus on  
2 the lower river, to advance the science of the eco-  
3 system, and to deliver environmental results. The  
4 Estuary Partnership was formed within the National  
5 Estuary Program and provides a structure for orga-  
6 nization and collaboration to implement Federal pri-  
7 orities. The Estuary Partnership includes all key  
8 Federal agencies as part of its management and gov-  
9 erning structure, including the EPA, the United  
10 States Geological Survey (USGS), the National Oce-  
11 anic and Atmospheric Administration (NOAA), the  
12 Army Corps of Engineers, the Forest Service, and  
13 tribal, State, and local governments.

14 (7) The Columbia River Basin was designated  
15 by the EPA as an “Estuary of National Signifi-  
16 cance” in 1995 and a “Large Aquatic Ecosystem”  
17 in 2006.

18 (8) The Estuary Partnership has developed an  
19 unparalleled 2-State, public and private partnership,  
20 including unprecedented collaborative efforts among  
21 key Federal partners, including the EPA, the  
22 NOAA, the USGS, and the Army Corps of Engi-  
23 neers to advance Federal goals, and the Estuary  
24 Partnership and its partners have gathered scientific  
25 information and compiled data, and have made sig-

1       nificant gains in habitat protection and environ-  
2       mental education.

3               (9) Despite these advances, further degradation  
4       exists and contaminants persist in the Columbia  
5       River Basin and are impairing the health of fish,  
6       wildlife, and humans. Degraded conditions in the  
7       river exacerbate the challenges already faced by the  
8       13 species of salmon and steelhead in the Columbia  
9       River Basin listed as threatened or endangered  
10      under the Endangered Species Act of 1973.

11              (10) The “Estuary Partnership Comprehensive  
12      Conservation and Management Plan” (1999), the  
13      “Northwest Power and Conservation Council Lower  
14      Columbia Province Plan” (2004, amended 2008),  
15      the draft “NOAA Columbia River Estuary Recovery  
16      Module for Salmon and Steelhead” (2010), the  
17      States of Oregon, Idaho, and Washington Recovery  
18      Plans, the “Biological Opinion for the Federal Co-  
19      lumbia River Power System (FCRPS)” (2000, 2004,  
20      2008), and the “EPA Columbia Basin State of the  
21      River Report for Toxics” (2009) consistently iden-  
22      tify habitat loss and toxic contamination as threats  
23      to fish and wildlife.

1 **SEC. 3. COLUMBIA RIVER.**

2 Title I of the Federal Water Pollution Control Act  
3 (33 U.S.C. 1251 et seq.) is amended by adding at the end  
4 the following:

5 **“SEC. 123. COLUMBIA RIVER.**

6 “(a) DEFINITIONS.—In this section, the following  
7 definitions apply:

8 “(1) ACTION PLAN.—The term ‘Action Plan’  
9 means the ‘Columbia River Basin Toxics Reduction  
10 Action Plan’ developed by the Environmental Pro-  
11 tection Agency and the Columbia River Toxics Re-  
12 duction Working Group in 2010, including any  
13 amendments thereto.

14 “(2) COMPREHENSIVE PLAN.—The term ‘Com-  
15 prehensive Plan’ means the ‘Estuary Partnership  
16 Comprehensive Conservation and Management Plan’  
17 adopted by the Environmental Protection Agency  
18 and the Governors of Oregon and Washington on  
19 October 20, 1999, under section 320, including any  
20 amendments thereto.

21 “(3) ESTUARY PARTNERSHIP.—The term ‘Es-  
22 tuary Partnership’ means the Lower Columbia River  
23 Estuary Partnership, an entity created by the States  
24 of Oregon and Washington and the Environmental  
25 Protection Agency under section 320.

1           “(4) LOWER COLUMBIA RIVER AND ESTUARY.—  
2           The term ‘Lower Columbia River and Estuary’  
3           means the region consisting of the lower 146 miles  
4           of the Columbia River Basin from the Bonneville  
5           Dam to the Pacific Ocean.

6           “(5) MIDDLE AND UPPER COLUMBIA RIVER  
7           BASIN.—The term ‘Middle and Upper Columbia  
8           River Basin’ means the region consisting of the  
9           United States portion of the Columbia River Basin  
10          above Bonneville Dam, including the Snake River  
11          (and its tributaries) and other tributaries of the Co-  
12          lumbia River.

13          “(6) TEAM LEADER.—The term ‘Team Leader’  
14          means the Team Leader appointed under subsection  
15          (b).

16          “(b) PROGRAM TEAM.—

17                 “(1) ESTABLISHMENT.—The Administrator  
18                 shall establish in the Environmental Protection  
19                 Agency a Columbia River Program Team. The Team  
20                 shall be located within the Oregon Operations Office  
21                 for Region 10 of the Environmental Protection  
22                 Agency.

23                 “(2) APPOINTMENT OF TEAM LEADER.—The  
24                 Administrator shall appoint a Team Leader, who, by  
25                 reason of management experience and technical ex-

1       pertise relating to the Columbia River Basin, shall  
2       be highly qualified to support the development and  
3       implementation of projects, programs, and studies  
4       necessary to implement the Action Plan.

5               “(3) DELEGATION OF AUTHORITY; STAFFING.—

6       The Administrator shall delegate to the Team Lead-  
7       er such authority and provide such additional staff  
8       as may be necessary to carry out this section.

9               “(c) DUTIES.—

10              “(1) IN GENERAL.—In carrying out this sec-  
11       tion, the Administrator, acting through the Team  
12       Leader, shall—

13              “(A) assist and support the implementa-  
14       tion of the Action Plan and the Comprehensive  
15       Plan;

16              “(B) coordinate the implementation of the  
17       Action Plan and the Comprehensive Plan, and  
18       the development of any updates to those plans,  
19       with programs and projects in the Middle and  
20       Upper Columbia River Basin;

21              “(C) make such other updates to the Ac-  
22       tion Plan and the Comprehensive Plan as the  
23       Administrator, in consultation with appropriate  
24       Federal agencies, the States of Oregon, Wash-  
25       ington, and Idaho, tribal governments, local

1 governments, and other public and private in-  
2 terests in the Columbia River Basin, considers  
3 appropriate;

4 “(D) provide funding and make grants for  
5 implementation of the Action Plan and the  
6 Comprehensive Plan and projects, programs,  
7 and studies consistent with the priorities of the  
8 Action Plan and the Comprehensive Plan;

9 “(E) promote innovative methodologies and  
10 technologies that are cost effective and con-  
11 sistent with the identified goals and objectives  
12 of the Action Plan and the Comprehensive Plan  
13 and the permitting processes of the Environ-  
14 mental Protection Agency;

15 “(F) coordinate the major functions of the  
16 Federal Government related to the implementa-  
17 tion of the Action Plan and the Comprehensive  
18 Plan, including projects, programs, and studies  
19 for—

20 “(i) water quality improvements;

21 “(ii) toxics reduction and monitoring;

22 “(iii) wetland, riverine, and estuary  
23 restoration and protection;

24 “(iv) nearshore and endangered spe-  
25 cies recovery; and

1                   “(v) stewardship and environmental  
2                   education;

3                   “(G) coordinate the research and planning  
4                   projects authorized under this section with Fed-  
5                   eral agencies, State agencies, tribal govern-  
6                   ments, universities, and the Estuary Partner-  
7                   ship, including conducting or commissioning  
8                   studies considered necessary for strengthened  
9                   implementation of the Action Plan and the  
10                  Comprehensive Plan;

11                  “(H) track progress toward meeting the  
12                  identified goals and objectives of the Action  
13                  Plan and the Comprehensive Plan by—

14                         “(i) implementing and supporting a  
15                         project, program, and monitoring system  
16                         consistent with performance-based eco-  
17                         system standards and management; and

18                         “(ii) coordinating, managing, and re-  
19                         porting environmental data related to the  
20                         Action Plan and the Comprehensive Plan  
21                         in a manner consistent with methodologies  
22                         utilized by the Estuary Partnership, in-  
23                         cluding making such data and reports on  
24                         such data available to the public, including  
25                         on the Internet, in a timely fashion; and

1           “(I) collect and make available to the pub-  
2           lic, including on the Internet, publications and  
3           other forms of information relating to the envi-  
4           ronmental quality of the Lower Columbia River  
5           and Estuary.

6           “(2) IMPLEMENTATION METHODS.—The Ad-  
7           ministrator, acting through the Team Leader, may  
8           enter into interagency agreements, make intergov-  
9           ernmental personnel appointments, provide funding,  
10          make grants, and utilize other available methods in  
11          carrying out the duties under this subsection.

12          “(d) REPORT.—Not later than one year after the  
13          date of enactment of this section, and biennially there-  
14          after, the Administrator shall submit to Congress a report  
15          that—

16               “(1) summarizes the progress made in imple-  
17               menting the Action Plan and the Comprehensive  
18               Plan and the progress made toward achieving the  
19               identified goals and objectives described in such  
20               plans;

21               “(2) summarizes any modifications to the Ac-  
22               tion Plan and the Comprehensive Plan made in the  
23               period immediately preceding the report;

1           “(3) incorporates specific recommendations con-  
2           cerning the implementation of the Action Plan and  
3           the Comprehensive Plan; and

4           “(4) summarizes the roles and progress of each  
5           Federal agency that has jurisdiction in the Columbia  
6           River Basin toward meeting the identified goals and  
7           objectives of the Action Plan and the Comprehensive  
8           Plan.

9           “(e) IMPLEMENTATION OF ACTION PLAN AND COM-  
10          PREHENSIVE PLAN.—

11           “(1) IN GENERAL.—The Administrator, acting  
12           through the Team Leader and in consultation with  
13           the Estuary Partnership, shall carry out projects,  
14           programs, and studies to implement the Action Plan  
15           and the Comprehensive Plan.

16           “(2) PRIORITY PROJECTS, PROGRAMS, AND  
17           STUDIES.—The Administrator may give special em-  
18           phasis to projects, programs, and studies that are  
19           identified as priorities by the Estuary Partnership in  
20           the Action Plan and the Comprehensive Plan.

21           “(3) GRANTS.—

22           “(A) IN GENERAL.—The Administrator,  
23           acting through the Team Leader, is authorized  
24           to make grants for projects, programs, and

1 studies to implement the Action Plan and the  
2 Comprehensive Plan.

3 “(B) ALLOCATIONS.—In making grants  
4 using funds appropriated to carry out this para-  
5 graph for a fiscal year, the Administrator, act-  
6 ing through the Team Leader, shall use—

7 “(i) not less than 40 percent of the  
8 funds to make a comprehensive grant to  
9 the Estuary Partnership to manage imple-  
10 mentation of the Comprehensive Plan;

11 “(ii) not less than 50 percent of the  
12 funds to make grants, as allocated by the  
13 Team Leader, for projects, programs and  
14 studies prioritized in the Action Plan  
15 throughout the Columbia River Basin, and  
16 for other coordinated projects, programs,  
17 and studies in the Middle and Upper Co-  
18 lumbia River Basin; and

19 “(iii) not more than 5 percent of the  
20 funds for project management, administra-  
21 tion, and reporting.

22 “(4) FEDERAL SHARE.—The Federal share of  
23 the costs for which a grant is made under this sec-  
24 tion shall be 75 percent, except that the Adminis-  
25 trator may increase the Federal share in such cir-

1       cumstances as the Administrator determines appro-  
2       priate.

3       “(f) ANNUAL BUDGET PLAN.—The President, as  
4 part of the President’s annual budget submission to Con-  
5 gress under section 1105(a) of title 31, United States  
6 Code, shall submit information regarding each Federal  
7 agency involved in protection and restoration of the Co-  
8 lumbia River Basin, including—

9               “(1) an interagency crosscut budget that dis-  
10       pays for each Federal agency—

11                       “(A) the amounts obligated in the pre-  
12       ceding fiscal year for protection and restoration  
13       projects, programs, and studies relating to the  
14       Columbia River Basin;

15                       “(B) the estimated budget for the current  
16       fiscal year for protection and restoration  
17       projects, programs, and studies relating to the  
18       Columbia River Basin; and

19                       “(C) the proposed budget for protection  
20       and restoration projects, programs, and studies  
21       relating to the Columbia River Basin; and

22               “(2) a description and assessment of the Fed-  
23       eral role in the development and implementation of  
24       the Action Plan and the Comprehensive Plan and  
25       the specific role of each Federal agency involved in

1 protection and restoration of the Columbia River  
2 Basin, including specific projects, programs, and  
3 studies conducted or planned to achieve the identi-  
4 fied goals and objectives of the Action Plan and the  
5 Comprehensive Plan.

6 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
7 is authorized to be appropriated to the Administrator to  
8 carry out this section \$40,000,000 for each of fiscal years  
9 2011 through 2016. Such sums shall remain available  
10 until expended.”.

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