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104TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 104–395

TRINITY RIVER BASIN FISH AND WILDLIFE MANAGEMENT REAUTHORIZATION ACT OF 1995

DECEMBER 11, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 2243]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2243) to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995".

SEC. 2. CLARIFICATION OF FINDINGS.

Section 1 of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2721), as amended, is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(2) by adding after paragraph (4) the following:

"(5) Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration;"; and

(3) by amending paragraph (7), as so redesignated, to read as follows:

"(7) the Secretary requires additional authority to implement a management program, in conjunction with other appropriate agencies, to achieve the long-term goals of restoring fish and wildlife populations in the Trinity River Basin,

and, to the extent these restored populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program will aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.".

SEC. 3. CHANGES TO MANAGEMENT PROGRAM.

(a) OCEAN FISH LEVELS.—Section 2(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2722), as amended, is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", in consultation with the Secretary of Commerce where appropriate," after "Secretary"; and

(B) by adding the following after "such levels.": "To the extent these restored fish and wildlife populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program is intended to aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.".

(b) FISH HABITATS IN THE KLAMATH RIVER.—Paragraph (1)(A) of such section (98 Stat. 2722) is amended by striking "Weitchpec;" and inserting "Weitchpec and in the Klamath River downstream of the confluence with the Trinity River;".

(c) TRINITY RIVER FISH HATCHERY.—Paragraph (1)(C) of such section (98 Stat. 2722) is amended by inserting before the period the following: ", so that it can best serve its purpose of mitigation of fish habitat loss above Lewiston Dam while not impairing efforts to restore and maintain naturally reproducing anadromous fish stocks within the basin".

(d) ADDITION OF INDIAN TRIBES.—Section 2(b)(2) of such Act (98 Stat. 2722) is amended by striking "tribe" and inserting "tribes".

SEC. 4. ADDITIONS TO TASK FORCE.

(a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2722), as amended, is amended—

(1) by striking "fourteen" and inserting "nineteen";

(2) by striking "United States Soil Conservation Service" in paragraph (10) and inserting "Natural Resources Soil and Conservation Service"; and

(3) by inserting after paragraph (14) the following:

"(15) One individual to be appointed by the Yurok Tribe.

"(16) One individual to be appointed by the Karuk Tribe.

"(17) One individual to represent commercial fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the Pacific Coast Federation of Fishermen's Associations.

"(18) One individual to represent sport fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the California Advisory Committee on Salmon and Steelhead Trout.

"(19) One individual to be appointed by the Secretary, in consultation with the Secretary of Agriculture, to represent the timber industry.".

(b) COORDINATION.—Section 3 of such Act (98 Stat. 2722) is further amended by adding at the end thereof the following new subsection:

"(d) Task Force actions or management on the Klamath River from Weitchpec downstream to the Pacific Ocean shall be coordinated with, and conducted with the full knowledge of, the Klamath River Basin Fisheries Task Force and the Klamath Fishery Management Council, as established under Public Law 99–552. The Secretary shall appoint a designated representative to ensure such coordination and the exchange of information between the Trinity River Task Force and these two entities.".

(c) REIMBURSEMENT.—Section 3(c)(2) of such Act (98 Stat. 2723) is amended by adding at the end the following: "Members of the Task Force who are not full-time officers or employees of the United States, the State of California (or a political subdivision thereof), or an Indian tribe, may be reimbursed for such expenses as may be incurred by reason of their service on the Task Force, as consistent with applicable laws and regulations.".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to actions taken by the Trinity River Basin Fish and Wildlife Task Force on and after 120 days after the date of the enactment of this Act.

SEC. 5. APPROPRIATIONS.

(a) EXTENSION OF AUTHORIZATION.—Section 4(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, Califor-

nia, and for other purposes", approved October 24, 1984 (98 Stat. 2723), as amended, is amended—

(1) in paragraph (1), by striking "October 1, 1995" and inserting in lieu thereof "October 1, 1998"; and

(2) in paragraph (2), by striking "ten-year" and inserting in lieu thereof "13-year".

(b) IN-KIND SERVICES; OVERHEAD; AND FINANCIAL AND AUDIT REPORTS.—Section 4 of such Act (98 Stat. 2724) is amended—

(1) by designating subsection (d) as subsection (h); and

(2) by inserting after subsection (c) the following new subsections:

"(d) The Secretary is authorized to accept in-kind services as payment for obligations incurred under subsection (b)(1).

"(e) Not more than 20 percent of the amounts appropriated under subsection (a) may be used for overhead and indirect costs. For the purposes of this subsection, the term 'overhead and indirect costs' means costs incurred in support of accomplishing specific work activities and jobs. Such costs are primarily administrative in nature and are such that they cannot be practically identified and charged directly to a project or activity and must be distributed to all jobs on an equitable basis. Such costs include compensation for administrative staff, general staff training, rent, travel expenses, communications, utility charges, miscellaneous materials and supplies, janitorial services, depreciation and replacement expenses on capitalized equipment. Such costs do not include inspection and design of construction projects and environmental compliance activities, including (but not limited to) preparation of documents in compliance with the National Environmental Policy Act of 1969.

"(f) Not later than December 31 of each year, the Secretary shall prepare reports documenting and detailing all expenditures incurred under this Act for the fiscal year ending on September 30 of that same year. Such reports shall contain information adequate for the public to determine how such funds were used to carry out the purposes of this Act. Copies of such reports shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

"(g) The Secretary shall periodically conduct a programmatic audit of the in-river fishery monitoring and enforcement programs under this Act and submit a report concerning such audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

(c) AUTHORITY TO SEEK APPROPRIATIONS.—Section 4 of such Act, as amended by subsection (b) of this section, is further amended by inserting after subsection (h) the following new subsection:

"(i) Beginning in the fiscal year immediately following the year the restoration effort is completed and annually thereafter, the Secretary is authorized to seek appropriations as necessary to monitor, evaluate, and maintain program investments and fish and wildlife populations in the Trinity River Basin for the purpose of achieving long-term fish and wildlife restoration goals.".

SEC. 6. NO RIGHTS AFFECTED.

The Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2721), as amended, is further amended by inserting at the end thereof the following:

"PRESERVATION OF RIGHTS

"SEC. 5. Nothing in this Act shall be construed as establishing or affecting any past, present, or future rights of any Indian or Indian tribe or any other individual or entity.".

SEC. 7. SHORT TITLE OF 1984 ACT.

The Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2721), as amended by section 6 of this Act, is further amended by adding at the end the following:

"SHORT TITLE

"SEC. 6. This Act may be cited as the 'Trinity River Basin Fish and Wildlife Management Act of 1984'.".

PURPOSE OF THE BILL

The purposes of H.R. 2243 are to amend Public Law 98–541 to provide for the restoration of fish and wildlife in the Trinity River Basin, and to extend for three years the availability of monies for this restoration.

BACKGROUND AND NEED FOR LEGISLATION

Located in northwest California, the Trinity River travels over 200 miles before joining the Klamath River, which runs to the Pacific Ocean not far south of the Oregon border. The Trinity River Basin drains approximately 3,000 square miles and has historically produced major chinook and coho salmon and steelhead trout populations.

The Trinity River Division of the Central Valley Project in California included construction of the Trinity River and Lewiston Dams to divert a large part of the river's flow to the Central Valley of California for agricultural, municipal, and industrial uses. This diverted flow also passes through four hydroelectric plants and generates substantial amounts of electricity. The dams were completed in 1963.

The Lewiston Dam at mile 112 blocked access to 109 miles of salmon and trout spawning and rearing habitat on the upper river. To compensate for this loss, the Trinity River Hatchery was constructed at Lewiston to provide fish for stocking. Water flow below the dam was set at 120,000 acre-feet annually to maintain the productivity of the lower river. Even with these measures, both salmon and trout populations declined at a rapid rate after the completion of the project. The reduced flow at 120,000 acre-feet, down from an average annual flow of ten times that amount, allowed eroded sediments to fill holding pools and spawning and rearing areas. The reduced flow also allowed vegetation to become established along shallow stretches, further reducing rearing and spawning habitat. Other factors which contributed to loss of fish and wildlife populations were harmful land use, floods, fires, and an overharvest of some anadromous fish stocks. Currently, to ensure the return of a viable population of fish to the Klamath and Trinity Rivers, commercial fishing along a large area of the California and Oregon coast is banned.

In 1974, State and Federal agencies formed the Trinity River Basin Fish and Wildlife Task Force to develop an action plan for the restoration of the lower river. This Task Force concluded that one small watershed, Grass Valley Creek, was responsible for the bulk of the sediment that was destroying habitat in the most productive stretches of the lower river. In 1980, Congress authorized $3.5 million for the construction of Buckhorn Debris Dam and several sediment collection pools on Grass Valley Creek to control movement of sediments into the lower portion of the Trinity River. This dam was completed in 1990 at a total cost of approximately $20 million.

In 1981, the Department of the Interior planned to increase the lower river's flow to 340,000 acre-feet annually, to be reduced to 220,000 acre-feet in dry years and to 140,000 acre-feet in drought years. Also, the U.S. Fish and Wildlife Service was to conduct a 12-

year Trinity River Flow Evaluation to determine the effectiveness of the increased flows and habitat restoration measures. During the first six years of the study, a major drought occurred in California and flows were less than 340,000 acre-feet for four of the six years. To ensure that adequate flows would be released for the remaining six years, the Secretary amended the earlier planned restrictions so that the minimum annual release would be 340,000 acre-feet. This limit remains in effect today.

In May 1982, the Trinity River Task Force completed the Trinity River Basin Fish and Wildlife Management Program, which identified 11 actions designed to restore fish and wildlife habitat. This plan was embodied in legislation, Public Law 98–541, in 1984. This Act directed the Secretary of the Interior to implement the action plan and establish a 14-member Trinity River Basin Fish and Wildlife Task Force. The Act also authorized $33 million to remain available until the end of Fiscal Year 1995 for design and construction under the management program.[1] The Act also specified that restoration work on the lower river was to be delayed until the sediment control on Grass Valley Creek was complete, and that funds for Grass Valley Creek were not to be expended until cost-sharing arrangements were agreed upon with the State of California and the water and power authorities of the Central Valley Project.

The Trinity River Task Force issued a report in March 1993 stating that all the program elements would not be completed by the end of Fiscal Year 1995 and recommended continuation of the program for another five years. The Task Force also estimated that an additional $21.9 million was needed to complete and fully implement all of the action plans.

To date, restoration efforts in the Trinity River Basin include the modernization of the Lewiston Hatchery, the construction of the Buckhorn Debris Dam and sediment collection pools in the Grass Valley Creek, and the purchase and rehabilitation of 17,000 acres of highly erodible land in the Grass Valley Watershed. Other important habitat restoration efforts are underway, including replacement of spawning gravel below the Lewiston Dam, reestablishment of meander channels, dredging of pools in the Trinity River, and feather-tapering the river's edges—all to encourage natural fish spawning and rearing.

Reauthorization of Public Law 98–541 will continue the restoration of the Grass Valley Creek Watershed, control sediment on tributary watersheds, restore the South Forks Trinity River fish habitat, and implement a wildlife management program. The reauthorization would also provide $2.4 million per year for three years for operation, maintenance, and monitoring expenses. These efforts will contribute strongly to rebuilding the populations of salmon and trout which are important to commercial, recreational, and Tribal fishing interests.

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[1] This amount was increased by $15 million under Public Law 102–377 to purchase 17,000 acres of highly erodible land in the Grass Valley Creek watershed.

COMMITTEE ACTION

H.R. 2243 was introduced on August 4, 1995, by Congressman Frank Riggs. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife and Oceans.

On November 2, 1995, the Subcommittee held a hearing on H.R. 2243. Congressman Frank Riggs; Mr. David Cottingham, Counselor to the Assistant Secretary for Water and Science, Department of the Interior; Mr. Arnold Whitridge, Member, Trinity County Board of Supervisors; Mr. Thomas Weseloh, Northern California Manager, California Trout and Friends of the Trinity River; Mr. W.F. "Zeke" Grader, Jr., Executive Director, Pacific Coast Federation of Fishermen's Associations; and Mr. Michael Orcutt, Director of Fisheries, Hoopa Valley Tribe of California, all testified in support of the bill. Congressman Wally Herger submitted a statement in strong support of the legislation. All the witnesses persuasively argued that restoration of the Basin is of paramount importance to the economy and culture of northwestern California.

On November 7, 1995, the Subcommittee on Fisheries, Wildlife and Oceans met to mark up H.R. 2243. At that time, Chairman Jim Saxton offered an amendment in the nature of a substitute that deleted section 4 (Alternatives for Enhancing Harvest Opportunities) of the introduced bill, restored language from the original Act dealing with the restoration of fish and wildlife populations, altered the membership of the Trinity River Basin Fish and Wildlife Task Force, and made other technical changes. This amendment was adopted by voice vote. The bill, as amended, was then approved by voice vote and ordered favorably reported to the Full Committee.

On November 15, 1995, the Full Resources Committee met to consider H.R. 2243. An amendment en bloc was offered by Congressman Wayne Allard on behalf of Congressman John Doolittle which altered language in the bill pertaining to the potential increases in the ocean populations of salmon and trout relative to the restoration of salmon and trout production in the Trinity River Basin. This amendment passed by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995".

Section 2. Clarification of findings

Section 2 clarifies the Congressional findings section of Public Law 96–541 to provide that fishery restoration is to be measured not only by the number of returning adult fish but by the ability of dependent Tribal, commercial, and sport fisheries to participate fully in the benefits of the restoration in the Basin. It also states that, to the extent that restored fish and wildlife populations in the Trinity and Klamath River will contribute to ocean populations, a

management plan will aid the resumption of commercial and recreational fishing in the ocean.

Section 3. Changes to management program

Section 3 amends Public Law 98–541 to state that to the extent restored populations contribute to ocean populations, the management program is intended to aid in the resumption of commercial and recreational fishing in the ocean. This section also provides that in formulating a management plan, the Secretary of the Interior, where appropriate, will consult with the Secretary of Commerce. Section 3 also authorizes restoration activity in portions of the Klamath River, clarifies the purpose of the Trinity River Fish Hatchery, and recognizes that more than one Indian tribe may participate in the Task Force.

Section 4. Additions to task force

Section 4 expands the membership of the Trinity River Task Force found in section 3 of Public Law 98–541 by five members, including representation for commercial and recreational fishing interests, the Karuk Tribe, the timber industry, and the Yurok Tribe. This section also states that 120 days after the date of enactment, no action may be taken by the Task Force unless the new appointments have been made, that the Trinity River Basin Fish and Wildlife Task Force will coordinate efforts with the Klamath Fishery Management Council and Task Force, and that certain appointees may be reimbursed for expenses they incurred during their service on the Task Force.

Section 5. Appropriations

Section 5 extends Public Law 98–541 by authorizing the management program for an additional three years and continues the authorization of $2.4 million per year for three years for operations, maintenance, and monitoring. This section allows the Secretary to request funds for monitoring, maintenance, and evaluation of restoration projects after they have been completed. This section also allows the Secretary to accept in-kind services as payment for obligations incurred under the Act, limits the portion of management program funds to be used for overhead and indirect costs, and requires annual financial reports to Congress.

Section 6. No rights affected

Section 6 amends Public Law 98–541 to stipulate that nothing in that Act is to be construed as establishing or affecting any past, present, or future rights of any Indian or Indian tribe, or any other individual or entity.

Section 7. Short title of 1984 act

Section 7 designates Public Law 98–541 as the "Trinity River Basin Fish and Wildlife Management Act of 1984".

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee

on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2243 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2243. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2243 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. The bill will not increase revenues but would reduce offsetting receipts to the Federal Government (less than $500,000 per year for the period 1996–1998).

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2243.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2243 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 8, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2243, the Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995.

Enacting H.R. 2243 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2243.

2. Bill title: Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995.

3. Bill status: As ordered reported by the House Committee on Resources on November 15, 1995.

4. Bill purpose: H.R. 2243 would amend the 1984 Trinity River Basin, California, Fish and Wildlife Act (Public Law 98–541), as amended, to extend the authorization of appropriations for the Trinity River Basin Fish and Wildlife Management Program through fiscal year 1998. The original authorization expired at the end of fiscal year 1995. The bill also would authorize the Secretary of the Interior to accept in-kind services as payment for obligations incurred by certain nonfederal entities under the act.

5. Estimated cost to the Federal Government: CBO estimates that enacting H.R. 2243 would result in new discretionary spending of about $15 million between 1997 and 1999, assuming appropriation of the authorized amount. We also estimate that the bill would affect direct spending but that the changes would be less than $500,000 per year over the 1996–1998 period. There would be no impact on direct spending in 1999 or 2000. The following table summarizes the estimated budgetary impact of the bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Spending subject to appropriations action:						
Spending under current law:						
Budget authority	7	7	0	0	0	0
Estimated outlays	7	7	1	0	0	0
Proposed changes:						
Estimated authorization level	0	0	7	7	0	0
Estimated outlays	0	0	6	7	1	0
Spending under H.R. 2243:						
Estimated authorization level [1]	7	7	7	7	0	0
Estimated outlays	7	7	7	7	1	0
Additional direct spending:						
Estimated budget authority	0	([2])	([2])	([2])	0	0
Estimated outlays	0	([2])	([2])	([2])	0	0

[1] The 1995 and 1996 levels are the amounts appropriated for those years.
[2] Less than $500,000.

The costs of this bill fall within budget function 300.

6. Basis of estimate:

Spending subject to appropriation

Assuming appropriation of the amounts authorized, CBO estimates that enactment of the bill would result in new discretionary spending totaling slightly less than $15 million over the 1997–1999 period. Roughly $10 million of this total would be for design and

construction activities and about $5 million would be for operations and maintenance.

Authorization for Design and Construction.—H.R. 2243 would extend the period over which funds authorized under the 1984 act for design and construction could be expended through fiscal year 1998. The original authority expired in fiscal year 1995 and was extended to 1996 by the Fiscal Year 1996 Appropriations for Energy and Water (Public Law 104–46). Based on information provided by the Bureau of Reclamation, and accounting for expected inflation over the next few years, CBO estimates that extending the authorization for design and construction activities through 1998 would cost about $10 million, assuming appropriation of the authorized amounts. That total reflects the balance of previously authorized but unappropriated amounts from the ceiling on design and construction spending, as established in Public Law 98–541, as amended. (Public Law 98–541, as amended, establishes a ceiling of $48 million, but allows for increases to account for inflation. To date, $61 million has been appropriated. CBO estimates that the total authorization, after accounting for inflation over the 1996–1998 period, is about $71 million.)

The Bureau of Reclamation has indicated that the amounts authorized under the 1984 act, as amended, are not sufficient to complete the design and construction of the management program. The Bureau estimates that $26 million (in 1995 dollars) would be required to complete the program in addition to the $10 million discussed above. H.R. 2243 does not change the current spending ceiling, however, and these potential costs are therefore not included in this estimate.

Authorization for Operations and Maintenance.—H.R. 2243 also would authorize appropriations of $2.4 million a year for operation and maintenance of the management program through fiscal year 1998. The original authority of $2.4 million a year expired in fiscal year 1995 and was extended to fiscal year 1996 by this year's appropriation bill (Public Law 104–46).

Direct spending

CBO estimates that enacting H.R. 2243 would result in direct spending of less than $500,000 per year over the 1996–1998 period. This reflects CBO's estimate of the receipts that would be lost by allowing the Secretary of the Interior to accept in-kind contributions instead of cash from certain nonfederal entities that are required by the 1984 act to share project costs.

CBO estimates that the provision would affect roughly $1 million of the annual payments due from cost-sharing partners. Payments by contributors that would qualify for this provision, however, have been less than $500,000 a year in recent years. Based on this recent payment history, CBO estimates that the provision would result in a loss of offsetting receipts of less than $500,000 a year. Based on information provided by the Bureau of Reclamation and the state of California (the primary cost-sharing partner that would qualify for the provision), CBO assumes that in-kind payments could not be made against unpaid cost-sharing obligations incurred prior to 1996, which total slightly more than $3 million.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 2243 would affect direct spending by allowing the Secretary of the Interior to accept in-kind contributions instead of financial payments from nonfederal entities that are required by the 1984 act to share project costs. A loss of offsetting receipts would increase direct spending and pay-as-you-go procedures would apply to the bill. CBO estimates that the loss of offsetting receipts would be less than $500,000 a year.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	(1)	(1)	(1)

[1] Not applicable.

8. Estimated cost to State and local governments: The 1984 Trinity River Basin Fish and Wildlife Act requires that federal expenditures for this project be matched by the state of California and the counties of Humboldt and Trinity, California, and by purchasers of water and power from the Trinity River division of the Central Valley Project. These purchasers include public utilities and water districts. The combined state and county match is 15 percent of federal spending and the required match by purchasers is 50 percent. Given CBO's estimate that federal expenditures under the bill would be $7 million per year in fiscal years 1997 and 1998, the required state and county contribution would be about $1 million in each year, and the required contribution from water and power purchasers would be about $3.5 million annually.

H.R. 2243 would benefit the state of California and the counties of Humboldt and Trinity, California, by amending the 1984 act to allow these contributions to take the form of in-kind services. Based on information provided by state officials, we estimate that the state and counties combined would save less than $500,000 per year in the next three years as a result of this change. Total spending would decline because amounts that would have been spent in any case on state and county programs would be counted as part of the match, allowing the state and counties to forgo additional payments to the federal government.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal cost estimate: Gary Brown; State and local cost estimate: Marjorie Miller.

12. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 2243.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 24, 1984

AN ACT To provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes

FINDINGS

SECTION 1. The Congress finds that—

(1) * * *

* * * * * * *

(5) Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration;

[(5)**]** *(6)* a fish and wildlife management program has been developed by an existing interagency advisory group called the Trinity River Basin Fish and Wildlife Task Force; and

[(6) the Secretary requires additional authority to implement a basin-wide fish and wildlife management program in order to achieve the long-term goal of restoring fish and wildlife populations in the Trinity River Basin to a level approximately that which existed immediately before the start of the construction of the Trinity River division.**]**

(7) the Secretary requires additional authority to implement a management program, in conjunction with other appropriate agencies, to achieve the long-term goals of restoring fish and wildlife populations in the Trinity River Basin, and, to the extent these restored populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program will aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.

TRINITY RIVER BASIN AND WILDLIFE MANAGEMENT PROGRAM

SEC. 2. (a) Subject to subsection (b), the Secretary, *in consultation with the Secretary of Commerce where appropriate,* shall formulate and implement a fish and wildlife management program for the Trinity River Basin designed to restore the fish and wildlife populations in such basin to the levels approximating those which existed immediately before the start of the construction referred to in section 1(1) and to maintain such levels. *To the extent these restored fish and wildlife populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program is intended to aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.* The program shall include the following activities:

(1) The design, construction, operation, and maintenance of facilities to—

(A) rehabilitate fish habitats in the Trinity River between Lewiston Dam and [Weitchpec;] *Weitchpec and in the Klamath River downstream of the confluence with the Trinity River;*

(B) rehabilitate fish habitats in tributaries of such river below Lewiston Dam and in the south fork of such river; and

(C) modernize and otherwise increase the effectiveness of the Trinity River Fish Hatchery, *so that it can best serve its purpose of mitigation of fish habitat loss above Lewiston Dam while not impairing efforts to restore and maintain naturally reproducing anadromous fish stocks within the basin.*

(b)(1) The Secretary shall use the program described in section 1(5) of this Act as a basis for the management program to be formulated under subsection (a) of this section. In formulating and implementing such management program, the Secretary shall be assisted by an advisory group called the Trinity River Basin Fish and Wildlife Task Force established under section 3.

(2) In order to facilitate the implementation of those activities under the management program over which the Secretary does not have jurisdiction, the Secretary shall undertake to enter into a memorandum of agreement with those Federal, State, and local agencies, and the Indian [tribe] *tribes,* represented on the Task Force established under section 3. The memorandum of agreement should specify those management program activities for which the respective signatories to the agreement are primarily responsible and should contain such commitments and arrangements between and among the signatories as may be necessary or appropriate to ensure the coordinated implementation of the program.

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TRINITY RIVER BASIN FISH AND WILDLIFE TASK FORCE

SEC. 3. (a) There is established the Trinity River Basin Fish and Wildlife Task Force (hereinafter in this Act referred to as the "Task Force") which shall be composed of [fourteen] *nineteen* members as follows:

(1) * * *

* * * * * * *

(10) One officer or employee of the [United States Soil Conservation Service] *Natural Resource Soil and Conservation Service* to be appointed by the Secretary of Agriculture.

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(15) One individual to be appointed by the Yurok Tribe.

(16) One individual to be appointed by the Karuk Tribe.

(17) One individual to represent commercial fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the Pacific Coast Federation of Fishermen's Associations.

(18) One individual to represent sport fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the California advisory Committee on Salmon and Steelhead Trout.

(19) One individual to be appointed by the Secretary, in consultation with the Secretary of Agriculture, to represent the timber industry.

(c)(1) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Task Force.

(2) No moneys authorized to be appropriated under this Act may be used to pay any member of the Task Force for service on the Task Force or to reimburse any agency or governmental unit for the pay of any such member for such service. *Members of the Task Force who are not full-time officers or employees of the United States, the State of California (or a political subdivision thereof), or an Indian tribe, may be reimbursed for such expenses as may be incurred by reason of their service on the Task Force, as consistent with applicable laws and regulations.*

(d) Task Force actions or management on the Klamath River from Weitchpec downstream to the Pacific Ocean shall be coordinated with, and conducted with the full knowledge of, the Klamath River Basin Fisheries Task Force and the Klamath Fishery Management Council, as established under Public Law 99–552. The Secretary shall appoint a designated representative to ensure such coordination and the exchange of information between the Trinity River Task Force and these two entities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Subject to subsection (b), there are authorized to be appropriated—

(1) after fiscal year 1985, and to remain available until October 1, [1995] *1998*, for design and construction under the management program formulated under section 2(a), $33,000,000, adjusted appropriately to reflect any increase or decrease in the engineering cost indexes applicable to the types of construction involved between (A) the month of May 1982, and (B) the date of enactment of any appropriation for such construction; and

(2) for the cost of operations, maintenance, and monitoring under that management program, $2,400,000 for each of the fiscal years in the [ten] *13*-year period beginning on October 1, 1985.

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(d) The Secretary is authorized to accept in-kind services as payment for obligations incurred under subsection (b)(1).

(e) Not more than 20 percent of the amounts appropriated under subsection (a) may be used for overhead and indirect costs. For the purposes of this subsection, the term "overhead and indirect costs" means costs incurred in support of accomplishing specific work activities and jobs. Such costs are primarily administrative in nature and are such that they cannot be practically identified and charged directly to a project or activity and must be distributed to all jobs

on an equitable basis. Such costs include compensation for administrative staff, general staff training, rent, travel expenses, communications, utility charges, miscellaneous materials and supplies, janitorial services, depreciation and replacement expenses on capitalized equipment. Such costs do not include inspection and design of construction projects and environmental compliance activities, including (but not limited to) preparation of documents in compliance with the National Environmental Policy Act of 1969.

(f) Not later than December 31 of each year, the Secretary shall prepare reports documenting and detailing all expenditures incurred under this Act for the fiscal year ending on September 30 of that same year. Such reports shall contain information adequate for the public to determine how such funds were used to carry out the purposes of this Act. Copies of such reports shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(g) The Secretary shall periodically conduct a programmatic audit of the in-river fishery monitoring and enforcement programs under this Act and submit a report concerning such audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

[(d)**]** *(h)* For purposes of this section, the term "Grass Valley Creek activities" means the following activities authorized by the Act of September 4, 1980 (94 Stat. 1062):

(1) The construction of the Grass Valley Creek debris dam.

(2) The construction, operation, and maintenance of the sand dredging system in Grass Valley Creek.

(i) Beginning in the fiscal year immediately following the year the restoration effort is completed and annually thereafter, the Secretary is authorized to seek appropriations as necessary to monitor, evaluate, and maintain program investments and fish and wildlife populations in the Trinity River Basin for the purpose of achieving long-term fish and wildlife restoration goals.

PRESERVATION OF RIGHTS

SEC. 5. Nothing in this Act shall be construed as establishing or affecting any past, present, or future rights of an Indian or Indian tribe or any other individual or entity.

SHORT TITLE

SEC. 6. This Act may be cited as the "Trinity River Basin Fish and Wildlife Management Act of 1984".

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