

Calendar No. 610

111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-324

FISH STOCKING IN LAKES IN THE NORTH CASCADES NATIONAL PARK,
ROSS LAKE NATIONAL RECREATION AREA, AND LAKE CHELAN NA-
TIONAL RECREATION AREA

SEPTEMBER 27, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 2430]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2430) to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, having considered the same, reports favorably thereon with an amendment and recommends that the Act, 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 “North Cascades National Park Service Complex Fish Stocking Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **NORTH CASCADES NATIONAL PARK SERVICE COMPLEX.**—The term “North Cascades National Park Service Complex” means collectively the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

(2) **PLAN.**—The term “plan” means the document entitled “North Cascades National Park Service Complex Mountain Lakes Fishery Management Plan and Environmental Impact Statement” and dated June 2008.

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

SEC. 3. STOCKING OF CERTAIN LAKES IN THE NORTH CASCADES NATIONAL PARK SERVICE COMPLEX.

(a) **IN GENERAL.**—Subject to subsection (b), the Secretary shall authorize the stocking of fish in lakes in the North Cascades National Park Service Complex.

(b) **CONDITIONS.**—

(1) **IN GENERAL.**—The Secretary is authorized to allow stocking of fish in not more than 42 of the 91 lakes in the North Cascades National Park Service Complex that have historically been stocked with fish.

(2) NATIVE NONREPRODUCING FISH.—The Secretary shall only stock fish that are—

(A) native to the slope of the Cascade Range on which the lake to be stocked is located; and

(B) nonreproducing, as identified in management alternative B of the plan.

(3) CONSIDERATIONS.—In making fish stocking decisions under this Act, the Secretary shall consider relevant scientific information, including the plan and information gathered under subsection (c).

(4) REQUIRED COORDINATION.—The Secretary shall coordinate the stocking of fish under this Act with the State of Washington.

(c) RESEARCH AND MONITORING.—The Secretary shall—

(1) continue a program of research and monitoring of the impacts of fish stocking on the resources of the applicable unit of the North Cascades National Park Service Complex; and

(2) beginning on the date that is 5 years after the date of enactment of this Act and every 5 years thereafter, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the results of the research and monitoring under paragraph (1).

PURPOSE

The purpose of H.R. 2430 is to direct the Secretary of the Interior to authorize the stocking of fish in certain lakes in North Cascades National Park, Ross Lake National Recreation Area, and the Lake Chelan National Recreation Area.

BACKGROUND AND NEED

The North Cascades National Park Service Complex (which includes Ross Lake National Recreation Area and the Lake Chelan Recreational Area) contains over 245 mountain lakes, of which 91 have been historically stocked with fish. In some cases, the stocking of fish in these lakes dates back to the 1800's.

Fishing has been important to the area because of the recreational opportunities it creates. North Cascades National Park Complex estimates that 1,000 people fish in the mountain lakes each year. To allow for this, fish stocking is necessary because the mountain lakes are naturally fish free due to the steep creeks, waterfalls, and rugged nature of the valleys.

There has been an ongoing concern over the issue of fish stocking in the North Cascades National Park Complex. The issue was discussed during congressional hearings on the designation of the park. At that time, verbal comments from the Secretary of the Interior and the Director of the National Park Service (Director) indicated that fishing and fish stocking would continue if the area became a unit of the National Park System. These statements, though captured in the North Cascades Study Report, were never codified in the enabling legislation.

Since the park was designated in 1968, fish stocking continued under various agreements between the National Park Service (NPS) and the State of Washington. Continued stocking was authorized under a policy variance issued by the Director. The variance provided some guidance, but did not address long-term considerations and options which are necessary to best understand and manage the resource.

In 1986, the Director, through the variance, directed North Cascades National Park Complex to study and monitor the issue for its long term planning purposes. In June 2008, the NPS released its Mountain Lakes Fishery Management Plan and Environmental

Impact Statement (EIS). The plan and EIS analyzed a range of management actions and alternatives for the mountain lakes.

The plan identified four alternatives. Alternative B, the plan's preferred alternative, recommends the continued stocking of up to 42 of the lakes that have historically been stocked with fish. It also planned for the elimination of some fish populations from certain lakes while allowing reproducing populations to remain in others. Only non-reproducing fish can be stocked under Alternative B in order to minimize the risk of unwanted fish reproduction. Lastly, lakes that currently do not have fish would remain fishless under the preferred alternative.

Legislation is needed to exercise the preferred alternative because the Park Service lacks the authority to implement all of required management actions. All of the lakes considered in the plan are in a designated wilderness area, and NPS Management Policies prohibit fish stocking in waters that were naturally fishless in such areas. Without legislation, the NPS will implement Alternative D of the plan. Alternative D ceases fish stocking and removes reproducing fish from the mountain lakes, wherever it is feasible to do so, to reestablish fish-free lakes again.

The fish stocking program would be managed by the NPS and the State of Washington. Under the program, fish stocking would occur every 3 to 10 years and be tailored to specific lake conditions. Stocking would be done primarily by volunteers who backpack young fish in plastic containers to the lakes. Lakes that are too remote for backpack stocking, will be stocked using fixed wing aircraft chartered by the Washington Department of Fish and Wildlife.

LEGISLATIVE HISTORY

H.R. 2430, sponsored by Representative Hastings of Washington and others, passed the House of Representatives, on June 2, 2009, by a voice vote. The Subcommittee on National Parks held a hearing on the bill on July 22, 2009. S. Hrg. 111-129.

At its business meeting on August 5, 2010, the Committee on Energy and Natural Resources ordered the bill favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in its open business session on August 5, 2010, by a voice vote of a quorum present, recommends that the Senate pass H.R. 2430, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of H.R. 2430, the Committee adopted an amendment in the nature of a substitute. The amendment strikes the findings section, adds a definitions section, and adds conditions defining where and what types of fish may be stocked. The amendment is described in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the "North Cascades National Park Service Complex Fish Stocking Act".

Section 2 defines key terms used in the bill.

Section 3(a) directs the Secretary of the Interior (Secretary) to allow continued fish stocking in the North Cascades National Park Service Complex.

Subsection (b) defines the conditions under which the stocking may occur in up to 42 lakes within the North Cascades National Park Service Complex that have historically been stocked. The Secretary may only stock non-reproducing native fish, identified as native to the slope of the Cascade Range on which the lake to be stocked is located, and in accordance with management alternative B defined in the referenced fishery management plan and environmental impact statement. Stocking decisions are required to be based on scientific findings developed through research and monitoring and in coordination with the State of Washington.

Subsection (c) directs the Secretary to continue research and monitoring of the impacts of fish stocking and requires the Secretary to submit a report of findings based on these activities five years after enactment of the Act and every five years thereafter to the Senate Energy and Natural Resources Committee and Committee on Natural Resources of the House of Representatives.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

H.R. 2430—North Cascades National Park Service Complex Fish Stocking Act

H.R. 2430 would authorize the National Park Service (NPS) to stock fish in lakes in three units of the National Park System in the state of Washington. Based on information provided by the NPS, CBO estimates that implementing H.R. 2430 would have no significant effect on discretionary spending. Under the bill, the expense of stocking fish would be borne by the state or other non-federal entities, as it has been since the three park units were established. Enacting the legislation would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

H.R. 2430 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Assistant Director for the Budget Analysis Division.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2430.

The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2430, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 2430, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The views of the Department of the Interior were included in testimony received by the Committee at a hearing on H.R. 2430 on July 22, 2009, which is printed below:

STATEMENT OF DANIEL N. WENK, ACTING DIRECTOR,
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to provide the Department of the Interior's views on H.R. 2430, a bill to direct the Secretary of the Interior to continue stocking fish in certain lakes in North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area (hereafter referred to as "North Cascades Complex").

The Department does not oppose H.R. 2430; however we would like to work with the committee on amendments to the bill.

The National Park Service collectively manages North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area as North Cascades National Park Service Complex. All of the 245 mountain lakes in the North Cascades Complex area were naturally fishless. Fish stocking in this area began in the late 1800's. During this period, approximately 91 lakes were stocked at one time or another and 154 lakes were never stocked. This fish stocking provided the opportunity to fish in these mountain lakes. The issue of continued fish stocking arose in 1968 when the proposal to create the park was introduced. Although the enabling legislation does reference the requirement for a Washington state fishing license, it is silent regarding fish stocking. Stocking continued after the park was established. However, concerns over the ecological impacts of fish stocking in naturally fish-free waters continued. Then soon after the park complex was created, the National Park Service policy regarding fish stocking was revised to provide that fish stocking in naturally fish-free waters should not occur. Fish stocking was phased out in many national parks across the country to restore natural conditions and to preserve native species. In 1988, Congress designated ninety three percent of the North Cascades as the Stephen Mather Wilderness and 90 of the 91 lakes that had historically been stocked are within the Wilderness area. At the time the Wilderness was designated, Congress did not address the issue of stocking the lakes.

The 2006 Management Policies of the National Park Service (NPS) allow for the management of fish populations when necessary to restore resources to their natural

state or reestablish a native species that has been extirpated. Stocking of other plants or animals is also allowed under certain circumstances. Specifically, the policies provide that *“In some special situations, the Secretary may stock native or exotic animals for recreational harvesting purposes, but only when such stocking will not unacceptably impact park natural resources or processes and when:*

- *the stocking is of fish into constructed large reservoirs or other significantly altered large water bodies and the purpose is to provide for recreational fishing;*
- or
- *the intent for stocking is a treaty right or expressed in statute, applicable law, or a House or Senate report accompanying a statute.*

The Service will not stock waters that are naturally barren of harvested aquatic species.”

The NPS appreciates the collaborative partnership with the Washington Department of Fish and Wildlife (WDFW) at North Cascades Complex and throughout the State of Washington. Despite this strong working relationship, a number of challenges have historically arisen when trying to reconcile the missions and policies of the WDFW and NPS on this stocking program. However, multiple attempts have been made to negotiate a mutually acceptable outcome on this issue. For example, in 1987, the Assistant Secretary of the Interior, Fish and Wildlife and Parks, negotiated an agreement allowing fish stocking to continue in certain lakes while simultaneously conducting research into the ecological impacts of stocking. In 1991, the National Park Service entered into a Consent Decree to resolve litigation challenging the fish stocking program wherein NPS agreed to conduct research into the ecological impacts of fish stocking at North Cascades and then to conduct a NEPA review of the fish stocking of naturally fish-free lakes.

A decade of research, conducted in the North Cascades Complex through Oregon State University and the USGS Biological Resources Division, documented in the North Cascades lakes where fish had been stocked in low numbers and could not reproduce, no statistically significant ecological effects to native aquatic species were detected. However, in self-sustaining populations, non-native trout can have significant effects on native aquatic organisms such as amphibians and zooplankton.

In 2002, the NPS in collaboration with WDFW began development of a comprehensive Mountain Lakes Fishery Management Plan/Environmental Impact Statement (Plan/EIS). The purpose of the planning effort was to apply the results of the research and resolve the longstanding conflict over fish stocking in the mountain lakes.

On November 26, 2008, the NPS issued a Record of Decision for the final Plan/EIS and selected the preferred alternative that would stop stocking and remove fish from lakes where significant impacts were occurring (49 lakes) but allow stocking of non-reproducing fish at low densities

to continue in up to 42 lakes, subject to additional monitoring. In this manner, the EIS found that the stocking would not unacceptably impact park natural resources or processes in some lakes. However, the Record of Decision (ROD) also notes that fish stocking in the Stephen T. Mather Wilderness does not meet the minimum requirements analysis conducted under section 4(c) of the Wilderness Act. In addition, the ROD recognizes that to be consistent with NPS policy, the NPS would need the legal authority to implement the preferred alternative. The ROD further provides and that if the legal authority was not provided to the NPS by July 1, 2009, the NPS, consistent with NPS policy, would discontinue the stocking program in its entirety and work to restore the natural ecology of all the mountain lakes. In the majority of lakes this would be accomplished through the combination of not stocking and continued fishing. Over time, natural mortality would remove the remainder. In lakes where naturally reproducing populations were found, the NPS would work to remove these fish. Realistically at least ten lakes are so large that no known removal techniques will work and fish populations will remain for the foreseeable future.

The NPS is interested in ensuring that any legislation regarding fish stocking is guided by science and an understanding of the impact that such policy decisions would have on park resources. We recommend, for example, that any stocked fish be both native to the local watershed and be functionally sterile. And we request that the Secretary continue a program of monitoring the impacts of fish stocking in order to determine if further adjustments are needed to protect aquatic resources. We would welcome an opportunity to work with the Committee and the sponsors of this legislation on the language of these proposed amendments.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or other members of the Subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 2430, as ordered reported.

