

106TH CONGRESS
2D SESSION

H. R. 4754

To provide additional authority to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat on the Missouri River and to improve the environmental quality and public use and appreciation of the Missouri River.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2000

Ms. MCCARTHY of Missouri (for herself, Ms. DANNER, and Mr. SKELTON) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide additional authority to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat on the Missouri River and to improve the environmental quality and public use and appreciation of the Missouri River.

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 “Missouri River Valley
5 Improvement Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) Lewis and Clark were pioneering naturalists
4 that recorded dozens of species previously unknown
5 to science while ascending the Missouri River in
6 1804;

7 (2) the Missouri River, which is 2,321 miles
8 long, drains $\frac{1}{6}$ of the United States, is home to ap-
9 proximately 10,000,000 people in 10 States and 28
10 Native American tribes, and is a resource of incalcu-
11 lable value to the United States;

12 (3) the construction of dams, levees, and river
13 training structures in the past 150 years has aided
14 navigation, flood control, and water supply along the
15 Missouri River, but has reduced habitat for native
16 river fish and wildlife;

17 (4) river organizations, including the Missouri
18 River Basin Association, support habitat restoration,
19 riverfront revitalization, and improved operational
20 flexibility so long as these efforts do not significantly
21 interfere with uses of the Missouri River; and

22 (5) restoring a string of natural places by the
23 year 2004 would aid native river fish and wildlife,
24 reduce flood losses, enhance recreation and tourism,
25 and celebrate the bicentennial of Lewis and Clark's
26 voyage.

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

2 (1) to protect, restore, and enhance the fish,
3 wildlife, and plants, and the associated habitats on
4 which they depend, of the Missouri River;

5 (2) to restore a string of natural places that aid
6 native river fish and wildlife, reduce flood losses, and
7 enhance recreation and tourism;

8 (3) to revitalize historic riverfronts to improve
9 quality of life in riverside communities and attract
10 recreation and tourism;

11 (4) to monitor the health of the Missouri River
12 and measure biological, chemical, geological, and
13 hydrological responses to changes in Missouri River
14 management;

15 (5) to allow the Army Corps of Engineers in-
16 creased authority to restore and protect fish and
17 wildlife habitat on the Missouri River;

18 (6) to protect and replenish cottonwoods, and
19 their associated riparian woodland communities,
20 along the upper Missouri River; and

21 (7) to educate the public about the economic,
22 environmental, and cultural importance of the Mis-
23 souri River and the scientific and cultural discoveries
24 of Lewis and Clark.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) MISSOURI RIVER.—The term “Missouri
4 River” means the Missouri River and the adjacent
5 floodplain that extends from the mouth of the Mis-
6 souri River (RM 0) to the confluence of the Jeffer-
7 son, Madison, and Gallatin Rivers (RM 2341) in the
8 State of Montana.

9 (2) MISSOURI RIVER BASIN STATE.—The term
10 “Missouri River basin State” means the State of
11 Iowa, Kansas, Missouri, Montana, Nebraska, North
12 Dakota, or South Dakota.

13 **SEC. 4. AUTHORITY TO PROTECT, ENHANCE, AND RESTORE**
14 **FISH AND WILDLIFE HABITAT.**

15 Section 9(b) of the Act entitled “An Act authorizing
16 the construction of certain public works on rivers and har-
17 bors for flood control, and for other purposes”, approved
18 December 22, 1944 (commonly known as the “Flood Con-
19 trol Act of 1944”) (58 Stat. 891), is amended—

20 (1) by striking “(b) The general” and inserting
21 the following:

22 “(b) COMPREHENSIVE PLAN.—

23 “(1) IN GENERAL.—The general”;

24 (2) by striking “paragraph” and inserting “sub-
25 section”; and

26 (3) by adding at the end the following:

1 subsection (b), the Secretary of the Interior shall conduct
2 a study of the Missouri River to examine the needs and
3 opportunities for acquisition of land surrounding the Mis-
4 souri River for inclusion in the National Wildlife Refuge
5 System.

6 (b) STATE PARTICIPATION.—

7 (1) IN GENERAL.—Not later than 90 days after
8 the date of enactment of this Act, the Secretary of
9 the Interior shall submit to the Governor of each
10 Missouri River basin State a written request that
11 the State participate in the study under subsection
12 (a).

13 (2) RESPONSE OF GOVERNOR.—As soon as
14 practicable after the date on which a Governor of a
15 Missouri River basin State receives a request under
16 paragraph (1), the Governor shall submit to the Sec-
17 retary of the Interior written consent for the State
18 to participate in the study under subsection (a) if
19 the Governor determines that the State should par-
20 ticipate in the study.

21 (c) NEW REFUGE LAND.—Any acquisition of new
22 land for inclusion in the National Wildlife Refuge System
23 resulting from the study under subsection (a) shall be—

1 (1) conducted using acquisition authorities and
2 procedures in effect on the date of enactment of this
3 Act;

4 (2) from willing sellers only; and

5 (3) preceded by an evaluation of any impact of
6 the new land on other authorized project purposes of
7 the Missouri River main stem system as identified in
8 the Act entitled “An Act authorizing the construc-
9 tion of certain public works on rivers and harbors
10 for flood control, and for other purposes”, approved
11 December 22, 1944 (commonly known as the “Flood
12 Control Act of 1944”) (58 Stat. 891).

13 **SEC. 7. MISSOURI RIVER MITIGATION PROJECT.**

14 The matter under the heading “MISSOURI RIVER
15 MITIGATION, MISSOURI, KANSAS, IOWA, AND NEBRASKA”
16 of section 601(a) of the Water Resources Development Act
17 of 1986 (100 Stat. 4143) is amended by adding at the
18 end the following: “There is authorized to be appropriated
19 to carry out this paragraph \$20,000,000 for each of fiscal
20 years 2001 through 2010.”.

21 **SEC. 8. UPPER MISSOURI RIVER AQUATIC AND RIPARIAN**
22 **HABITAT MITIGATION PROGRAM.**

23 (a) IN GENERAL.—

24 (1) STUDY.—Not later than 2 years after the
25 date of enactment of this Act, the Secretary of the

1 Army, through an interagency agreement with the
2 Director of the United States Fish and Wildlife
3 Service and in accordance with the Fish and Wildlife
4 Conservation Act of 1980 (16 U.S.C. 2901 et seq.),
5 shall complete a study that—

6 (A) analyzes any adverse effects on aquatic
7 and riparian-dependent fish and wildlife result-
8 ing from the operation of the Missouri River
9 Mainstem Reservoir Project in the States of
10 Nebraska, South Dakota, North Dakota, and
11 Montana;

12 (B) recommends measures appropriate to
13 mitigate the adverse effects described in sub-
14 paragraph (A); and

15 (C) develops baseline geologic and hydro-
16 logic data relating to aquatic and riparian habi-
17 tat.

18 (2) REPORT.—Not later than 2 years after the
19 date of enactment of this Act, the Secretary of the
20 Army shall submit to Congress a report describing
21 the results of the study under paragraph (1).

22 (b) PILOT PROGRAM.—The Secretary of the Army,
23 in consultation with the Director of the United States Fish
24 and Wildlife Service and the affected State fish and wild-

1 life agencies, shall develop and administer a pilot mitiga-
2 tion program that—

3 (1) involves the experimental releases of warm
4 water from the spillways at Fort Peck Dam during
5 the appropriate spawning periods for native fish;

6 (2) involves the monitoring of the response of
7 fish to and the effectiveness of the preservation of
8 native fish and wildlife habitat of the releases de-
9 scribed in paragraph (1); and

10 (3) shall not adversely impact a use of the res-
11 ervoir existing on the date the pilot program is im-
12 plemented.

13 (c) RESERVOIR FISH LOSS STUDY.—

14 (1) IN GENERAL.—Not later than 2 years after
15 the date of enactment of this Act, the Secretary of
16 the Army, in consultation with the North Dakota
17 Game and Fish Department and the South Dakota
18 Department of Game, Fish and Parks, shall com-
19 plete a study to analyze and recommend measures to
20 avoid or reduce the loss of fish, including rainbow
21 smelt, through Garrison Dam in North Dakota and
22 Oahe Dam in South Dakota.

23 (2) REPORT.—Not later than 2 years after the
24 date of enactment of this Act, the Secretary of the

1 Army shall submit to Congress a report describing
2 the results of the study under paragraph (1).

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary of the
5 Army—

6 (1) to complete the study required under sub-
7 section (c), \$200,000; and

8 (2) to carry out the other provisions of this sec-
9 tion, \$1,000,000 for each of fiscal years 2001
10 through 2010.

11 **SEC. 9. MISSOURI AND MIDDLE MISSISSIPPI RIVERS EN-**
12 **HANCEMENT PROJECT.**

13 Section 514 of the Water Resources Development Act
14 of 1999 (113 Stat. 342) is amended by striking subsection
15 (g) and inserting the following:

16 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated to pay the Federal share
18 of the cost of carrying out activities under this section
19 \$5,000,000 for each of fiscal years 2002 through 2010.”.

20 **SEC. 10. RIVERFRONT REVITALIZATION.**

21 Section 11(b) of the Wild and Scenic Rivers Act (16
22 U.S.C. 1282(b)) is amended—

23 (1) by redesignating paragraphs (3) and (4) as
24 paragraphs (4) and (5), respectively; and

1 (2) by inserting after paragraph (2) the fol-
2 lowing:

3 “(3) MISSOURI RIVER.—

4 “(A) IN GENERAL.—The Secretary of the
5 Interior, acting through the Director of the Riv-
6 ers and Trails Conservation Assistance Pro-
7 gram of the National Park Service, shall, if re-
8 quested, work with riverside communities to de-
9 velop projects to revitalize historic riverfronts,
10 including—

11 “(i) the communities of—

12 “(I) Saint Charles, Missouri;

13 “(II) Kansas City, Missouri/Kan-
14 sas City, Kansas;

15 “(III) Saint Joseph, Missouri;

16 “(IV) Omaha, Nebraska;

17 “(V) Council Bluffs, Iowa;

18 “(VI) Sioux City, Iowa/South
19 Sioux City, Nebraska;

20 “(VII) Yankton, South Dakota;

21 “(VIII) Pierre, South Dakota/
22 Fort Pierre, South Dakota;

23 “(IX) Bismarek, North Dakota;

24 “(X) Fort Peck, Montana;

25 “(XI) Leavenworth, Kansas;

1 “(XII) Atchison, Kansas; and

2 “(XIII) Riverside Tribal Commu-
3 nities; and

4 “(ii) any other community along the
5 Missouri River that requests such a
6 project.

7 “(B) FUNDING.—

8 “(i) AUTHORIZATION OF APPROPRIA-
9 TIONS.—There is authorized to be appro-
10 priated to the Secretary of the Interior to
11 carry out this paragraph \$15,000,000.

12 “(ii) LIMITATION ON SHARE OF
13 COSTS.—The Federal share of costs associ-
14 ated with any single project described in
15 this paragraph shall not exceed 25 percent
16 of the total cost of that project.

17 “(iii) NO FUNDS FOR OPERATION OR
18 MAINTENANCE.—The Secretary of the In-
19 terior shall provide no funds for the oper-
20 ation and maintenance of a project under
21 this paragraph.”.

22 **SEC. 11. COTTONWOOD PROTECTION STUDY.**

23 (a) IN GENERAL.—The Secretary of the Interior, act-
24 ing through the Commissioner of the Bureau of Reclama-
25 tion and in consultation with the Secretary of the Army,

1 shall complete a study to evaluate opportunities to protect
2 and replenish cottonwoods in the associated riparian wood-
3 land communities along the Missouri River between Fort
4 Benton and Fort Peck Reservoir, Montana, in accordance
5 with the Water Resources Research Act of 1984 (42
6 U.S.C. 10301 et seq.).

7 (b) EVALUATION.—The study shall include an eval-
8 uation of cottonwood reproduction, including the relation-
9 ship of cottonwood reproduction to—

- 10 (1) native fish and other river wildlife, including
11 competition from nonnative species;
- 12 (2) flood losses;
- 13 (3) water supply needs;
- 14 (4) recreation; and
- 15 (5) main stem and tributary dam operations.

16 (c) REPORT.—Not later than July 31, 2002, the Sec-
17 retary of the Interior shall submit to Congress a report
18 describing the results of the study under this section.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Secretary of the Inte-
21 rior to carry out this section \$1,000,000.

22 **SEC. 12. LONG-TERM MONITORING PROGRAM.**

23 (a) ESTABLISHMENT.—The Secretary of the Army
24 and the Secretary of the Interior, in consultation with the
25 Director of the United States Geological Survey, shall es-

1 establish a program at the River Studies Center of the Bio-
2 logical Resources Division of the United States Geological
3 Survey, located in Columbia, Missouri, to determine and
4 monitor the geological, hydrological, biological, and chem-
5 ical characteristics of the Missouri River in accordance
6 with title I of the Department of the Interior and Related
7 Agencies Appropriations Act, 1997 (43 U.S.C. 31j).

8 (b) PROGRAM.—Not later than 2 years after the date
9 of enactment of this Act, the Secretary of the Interior
10 shall develop a program to monitor and assess the biota,
11 including threatened or endangered species, habitats, and
12 water quality of the Missouri River, in consultation with—

13 (1) the Governors of affected States, acting
14 through—

15 (A) the Missouri River Natural Resources
16 Committee; and

17 (B) 1 representative appointed by each
18 Governor;

19 (2) the Secretary of Agriculture;

20 (3) the Secretary of the Army;

21 (4) the Western Area Power Administration;

22 (5) the Administrator of the Environmental
23 Protection Agency; and

24 (6) the Missouri River Basin Tribes.

1 (c) ACTIVITIES.—The program under subsection (b)
2 shall provide scientific information to—

3 (1) guide operation and management of the
4 Missouri River, including operation of dams by the
5 Corps of Engineers and the Bureau of Reclamation;
6 and

7 (2) measure and model the impact of manage-
8 ment alternatives through—

9 (A) monitoring of biota, including threat-
10 ened or endangered species, habitats, and water
11 quality;

12 (B) focused identification of cause and ef-
13 fect relationships; and

14 (C) identification and evaluation of meth-
15 ods to conserve fish and wildlife.

16 (d) BASELINE.—The program under subsection (b)
17 shall establish a baseline of conditions against which fu-
18 ture activities can be measured.

19 (e) DATABASE.—The Secretary of the Interior
20 shall—

21 (1) establish a database on Missouri River
22 biota, including threatened or endangered species,
23 habitats, and water quality; and

24 (2) make the database readily available to the
25 public.

1 (f) REPORT.—Not later than 3 years after the date
2 of establishment of the program under subsection (b), and
3 not less frequently than every 3 years thereafter, the Sec-
4 retary of the Interior, acting through the Director of the
5 Biological Resources Division of the United States Geo-
6 logical Survey, shall—

7 (1) review the program;

8 (2) as necessary, establish and revise the objec-
9 tives of the program; and

10 (3) submit to Congress a report on the environ-
11 mental health of the Missouri River.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—There are authorized to be
14 appropriated to the Secretary of the Interior to
15 carry out this section—

16 (A) \$6,500,000 for fiscal year 2001;

17 (B) \$8,500,000 for fiscal year 2002; and

18 (C) \$15,100,000 for each of fiscal years
19 2003 through 2010.

20 (2) NONREIMBURSABLE EXPENDITURE.—The
21 costs associated with the development and implemen-
22 tation of the program under subsection (b) shall be
23 allocated to the United States as a nonreimbursable
24 expenditure.

1 **SEC. 13. INTERPRETATION AND RECREATION.**

2 (a) INTERPRETIVE CENTERS.—

3 (1) IN GENERAL.—The Secretary of the Inte-
4 rior, acting through the Director of the National
5 Park Service, shall establish Lewis and Clark Inter-
6 pretive Centers to educate the public about the eco-
7 nomic and environmental importance of the Missouri
8 River and the scientific and cultural discoveries of
9 Lewis and Clark in the vicinity of Missouri River
10 communities, including the communities of—

11 (A) Kansas City, Missouri;

12 (B) Nebraska City, Nebraska;

13 (C) Sioux City, Iowa;

14 (D) Pierre, South Dakota/Fort Pierre,
15 South Dakota;

16 (E) Bismarck, North Dakota;

17 (F) Great Falls, Montana;

18 (G) Leavenworth, Kansas; and

19 (H) Atchison, Kansas.

20 (2) SPENDING LIMIT.—The Secretary of the In-
21 terior's share of costs associated with any single
22 project described in this subsection shall not exceed
23 25 percent of the total cost of carrying out the
24 project.

25 (3) AUTHORIZATION OF APPROPRIATIONS.—

26 There is authorized to be appropriated to the Sec-

1 retary of the Interior to carry out this subsection
2 \$6,000,000 for each of fiscal years 2001 through
3 2007.

4 (b) RECREATION IMPROVEMENTS.—

5 (1) IN GENERAL.—The Secretary of the Army,
6 acting through the Chief of Engineers, shall provide
7 improvements to recreation facilities and visitor cen-
8 ters at the Missouri River main-stem projects to pro-
9 vide for increased visitor use associated with the
10 Lewis and Clark commemoration.

11 (2) AUTHORIZATION OF APPROPRIATIONS.—
12 There is authorized to be appropriated to the Sec-
13 retary of the Army to carry out this subsection
14 \$500,000 for each of fiscal years 2001 through
15 2004.

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