



Dear Chairman Huffman and Ranking Member McClintock,

On behalf of Merced, Modesto, Oakdale, South San Joaquin, and Turlock Irrigation Districts (the Districts), we write to express our views on H.R. 4723, the *Salmon Focused Investments in Sustainable Habitats Act of 2019* (“FISH Act”). We support the intent of the bill to take steps to address the conservation of salmon in the West. Although its intent seems to be consistent with our local efforts of supporting salmon, we are concerned that – as written – several elements of H.R. 4723 would adversely impact our operations: our local water supply stems from the tributaries of the San Joaquin River system.

Specifically, the bill would modify standards under the National Environmental Policy Act (NEPA) related to activities under the bill, changing it from applying the current standard of “major federal actions” to “any federal action.” This change could disrupt the NEPA process and slow maintenance to our existing water infrastructure.

In addition, the bill would require that, in order to satisfy NEPA, any federal action “carried out with respect to a salmon conservation area ... shall be the action that has the “least adverse impact” on such salmon conservation areas.” This new “least adverse impact” standard would be a major change to NEPA, likely creating confusion over which projects can move forward and resulting in years of litigation and delay.

Also, the bill would likely change implementation of Section 404 of the Clean Water Act. Under the FISH Act, if a project triggers the 404 regulation, regulators could prevent a water project from moving forward if it is in a Salmon Conservation Area or Salmon Stronghold unless it has no impacts on salmon habitat. This could be the case even if salmon are not present.

Notably, H.R. 4723 does not establish a limit on how or why a Salmon Conservation Area can be established. This could result in federal decision makers designating areas without salmon and without input from entities in the watershed. This could create uncertainty and confusion over the need for and boundaries of the conservation areas as well as unnecessary costs, giving rise to potential litigation.

Finally, under the bill, a variety of other stakeholders – including water agencies like ours – are not included among those who would be consulted in the establishment of “conservation areas” and “strongholds.” We believe this potentially limits the input of entities most directly impacted by the designations.

We greatly appreciate the opportunity to provide our views on H.R. 4723. Additionally, we concur with the comments of the Association of California Water Agencies (ACWA) on H.R. 4723. We would welcome the opportunity to provide further input should the legislation move forward.

Sincerely,

Merced Irrigation District

Modesto Irrigation District

Oakdale Irrigation District

South San Joaquin Irrigation District

Turlock Irrigation District