

Federal Clean Water Act

33 U.S.C. 1251 Title 33

Clean Water Act

- ▶ Clean water act is more than 35 books which span 2 shelves in Federal Library
- ▶ Less than 10% is online.
- ▶ Anthony had me go to Portland Federal Law Library and get some data from one book.

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A synopsis: The clean water act is more than 30 books. It prevents contaminants like silt from being released into waterways like KRRC did for Klamath. WaterWatch did for Palmore and Corps did for Green Peter and other dams.

33 U.S.C. § 1251

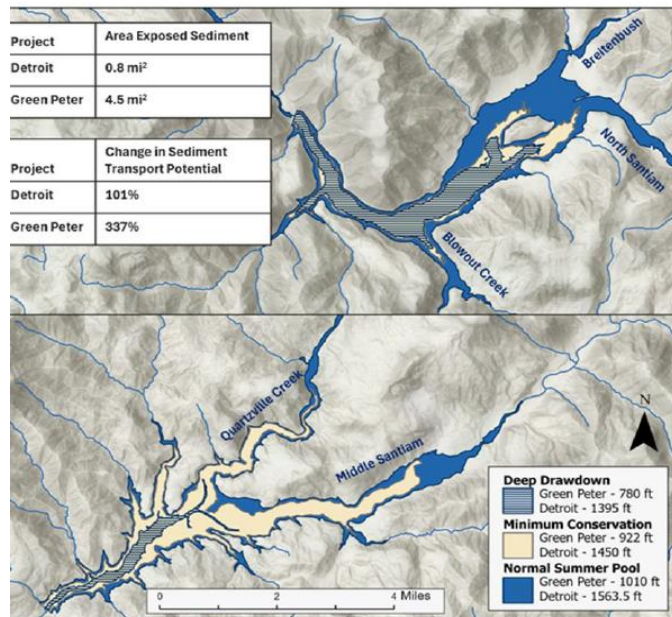
Unannotated Title 33. Navigation and Navigable Waters

The objective of this chapter is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this chapter(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

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Potential Deep Drawdown Impacts



Green Peter and Detroit Drawdown Areas

Source: US Army Corps of Engineers



Santiam River Confluence during the 2023 deep drawdown of Green Peter Dam.

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(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that area wide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State;

Therefore it was illegal for KRRC to release the contained silt which is 40 times the EPA limit for Arsenic and 200 times the EPA for chromium 6. See chapter three.

https://salmonprotectiondevice.com/CDM_2011_0119_Screening_Level_Evaluation_of_Contaminants_in_Sediments_1.pdf

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(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans; and

(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this chapter to be met through the control of both point and nonpoint sources of pollution.

(b) Congressional recognition, preservation, and protection of primary responsibilities and rights of States

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It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter. It is the policy of Congress that the States manage the construction grant program under this chapter and implement the permit programs under sections 1342 and 1344 of this title. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

(c) Congressional policy toward Presidential activities with foreign countries

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- ▶ It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, reduction, and elimination of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.
- ▶ (d) Administrator of Environmental Protection Agency to administer chapter
- ▶ Except as otherwise expressly provided in this chapter, the Administrator of the Environmental Protection Agency (hereinafter in this chapter called “Administrator”) shall administer this chapter.
- ▶ (e) Public participation in development, revision, and enforcement of any regulation, etc.
- ▶ Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

- ▶ It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop **comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.**
- ▶ Therefore by 33 U.S.C. 1251 Title 33 it is illegal to remove a dam without
- ▶ first dredging the silt and checking the contamination level first.

42 USC CHAPTER 6A

- ▶ 42 U.S. Code Chapter 6A Subchapter XII - SAFETY OF PUBLIC WATER SYSTEMS
- ▶ 42 U.S. Code § 300g-2 - State primary enforcement responsibility
- ▶ (a) In general
- ▶ For purposes of this subchapter, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—
- ▶ (1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 300g-1 of this title not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;

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- ▶ (2)has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;
- ▶ (3)will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;
- ▶ (4)if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 300g-4 and 300g-5 of this title;
- ▶ (5)has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances including earthquakes, floods, hurricanes, and other natural disasters, as appropriate;

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- ▶ 6)has adopted and is implementing procedures for requiring public water systems to assess options for consolidation or transfer of ownership or other actions in accordance with the regulations issued by the Administrator under section 300g-3(h)(6) of this title; and
- ▶ (7)has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—
- ▶ (A)in the case of a system serving a population of more than 10,000, that is not less than \$1,000 per day per violation; and
- ▶ (B)in the case of any other system, that is adequate to ensure compliance (as determined by the State);
- ▶ except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

42 USC CHAPTER 6A

- ▶ States are responsible.
- ▶ (b)REGULATIONS(1)The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this subchapter when it is determined to have primary enforcement responsibility for public water systems.
- ▶ (2)When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

42 USC CHAPTER 6A

- ▶ (c) INTERIM PRIMARY ENFORCEMENT AUTHORITY A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) with respect to the regulation.

Klamath Dam illegal Removal.

- ▶ The results of this evaluation suggest the Klamath Reservoir sediments can be
- ▶ considered relatively clean, with no chemicals present at levels that would preclude their release into downstream or marine environments.
- ▶ https://salmonprotectiondevice.com/CDM_2011_0119_Screening_Level_Evaluation_of_Contaminants_in_Sediments_1.pdf
- ▶ Klamath lake sediment which fed the four dams has 96 times the allowable level Chromium 6.

Table 2. Chemicals in 2009-2010 Klamath Reservoir Sediment that Exceed One or More Freshwater Sediment Screening Levels

Chemical	COPC Based on Detect (D) or Elevated Reporting Limit (RL)	Units	Range of Detections for Detected Analytes that Exceed One or More Screening Levels	Range of Reporting Limits (RL) for Non-Detects	Ratio of Maximum Chemical Concentration to SL for Detected Analytes ^(a)	Screening Values Exceeded	Highest of Screening Value Hierarchy Level ^(b)
Lower Klamath							
Chromium	D	mg/kg	96	--	1.0	SL1-FWS, SL2-FWS, FWS TEL, FWS LEL, FWS PEL, FWS TEC	2b

Klamath Dam illegal Removal

- ▶ Klamath lake sediment which fed the four dams has 40 to 200 times the allowable level Arsenic.

Table 3. Chemicals in 2009-2010 Klamath Reservoir Sediment that Exceed One or More Human Health Sediment Screening Levels

Chemical	COPC Based on Detect (D) or Elevated Reporting Limit (RL)	Units	Range of Detections for Detected Analytes that Exceed One or More Screening Levels	Range of Reporting Limits (RL) for Non-Detects	Ratio of Maximum Chemical Concentration to SL for Detected Analytes ⁽¹⁾	Screening Values Exceeded
J.C. Boyle Reservoir						
Arsenic	D	mg/kg	4.3 - 15	---	38 - 214	EPA RSL TOT CAR, CHHSL Res, CHHSL Comm

Klamath Dam illegal Removal

- ▶ **3.2 COPCs Under the Proposed Action “Dams Removed”**
- ▶ As part of Proposed Action –dams removed, modeling predicts a portion of sediment currently
- ▶ located behind each of the dams would be mobilized, dispersed, and carried to the ocean with
- ▶ minimal deposition downstream and in the estuary due to the sediment being dominated by fine
- ▶ particles and the high velocity of the stream flows that are expected to carry the fine sediment
- ▶ into the ocean (BOR 2011a and Stillwater Sciences 2008). Released sediments would be
- ▶ variably distributed spatially and temporally over the short-term (first one to two years),
- ▶ depending on the flows that actually occur following dam removal (BOR 2011a). Some
- ▶ sediment is likely to be deposited along the bank or the stream bed of the Klamath River. Most
- ▶ of these sediments deposited downstream will ultimately be re-suspended and distributed as
- ▶ suspended material in the marine near shore environment after passing through the estuary (BOR
- ▶ 2011a).

