

PUBLIC LAW 101-596 - NOV. 16, 1990

TITLE III - LAKE CHAMPLAIN

SHORT TITLE

Sec. 301 This title may be cited as the "Lake Champlain Special Desination Act of 1990"

DEMONSTRATION PROGRAM

Sec. 302 Paragraph (2) of scetion 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d) is amneded by inserting "Lake Champlain, New York and Vermont;" before "Lake Houston, Texas"

LAKE CHAMPLAIN MANAGEMENT CONFERENCE

"Sec. 1270. (a) ESTABLISHMENT.—There is established a Lake Champlain Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The Administrator shall convene the management conference within ninety days of November 16, 1990.

"(b) MEMBERSHIP.—The Members of the Management Conference shall be comprised of.—

- "(1) the Governors of the States of Vermont and New York;
- "(2) each interested Federal agency, not to exceed a total of five members;
- "(3) the Vermont and New York Chairpersons of the Vermont, New York, Quebec Citizens Advisory Committee for the Environmental Management of Lake Champlain;
- "(4) four representatives of the State legislature of Vermont;
- "(5) four representatives of the State legislature of New York;
- "(6) six persons representing local governments having jurisdiction over any land or water within the Lake Champlain basin, as determined appropriate by the Governors; and
- "(7) eight persons representing affected industries, nongovernmental organizations, public and private educational institutions, and the general public, as determined appropriate by the trigovernmental Citizens Advisory Committee for the Environmental Management of Lake Champlain, but not to be current members of the Citizens Advisory Committee.

"(c) TECHNICAL ADVISORY COMMITTEE.— (1) The Management Conference shall, not later than one hundred and twenty days after November 16, 1990, appoint a Technical Advisory Committee.

"(2) Such Technical Advisory Committee shall consist of officials of: appropriate departments and agencies of the Federal Government; the State governments of New York and Vermont; and governments of political subdivisions of such States; and public and private research institutions.

"(d) RESEARCH PROGRAM.— (1) [1] The Management Conference shall establish a multi-disciplinary environmental research program for Lake Champlain. Such research program shall be planned and conducted jointly with the Lake Champlain Research Consortium. [1] So in original. Subsec. (d) enacted without a par.

"[1] The Management Conference shall establish a

"(e) POLLUTION PREVENTION, CONTROL, AND RESTORATION PLAN.— (1) Not later than three years after November 16, 1990, the Management Conference shall publish a pollution

prevention, control, and restoration plan (hereafter in this section referred to as the "Plan") for Lake Champlain.

"(2) The Plan developed pursuant to this section shall—

"(A) identify corrective actions and compliance schedules addressing point and nonpoint sources of pollution necessary to restore and maintain the chemical, physical, and biological integrity of water quality, a balanced, indigenous population of shellfish, fish and wildlife, recreational, and economic activities in and on the lake;

"(B) incorporate environmental management concepts and programs established in State and Federal plans and programs in effect at the time of the development of such plan;

"(C) clarify the duties of Federal and State agencies in pollution prevention and control activities, and to the extent allowable by law, suggest a timetable for adoption by the appropriate Federal and State agencies to accomplish such duties within a reasonable period of time;

"(D) describe the methods and schedules for funding of programs, activities, and projects identified in the Plan, including the use of Federal funds and other sources of funds; and

"(E) include a strategy for pollution prevention and control that includes the promotion of pollution prevention and management practices to reduce the amount of pollution generated in the Lake Champlain basin.

"(3) The Administrator, in cooperation with the Management Conference, shall provide for public review and comment on the draft Plan. At a minimum, the Management Conference shall conduct one public meeting to hear comments on the draft plan in the State of New York and one such meeting in the State of Vermont.

"(4) Not less than one hundred and twenty days after the publication of the Plan required pursuant to this section, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governors of the States of New York and Vermont concur.

"(5) Upon approval of the plan, such plan shall be deemed to be an approved management program for the purposes of section 1329(h) of this title and such plan shall be deemed to be an approved comprehensive conservation and management plan pursuant to section 1330 of this title.

"(f) GRANT ASSISTANCE— (1) The Administrator may, in consultation with the Management Conference, make grants to State, interstate, and regional water pollution control agencies, and public or nonprofit agencies, institutions, and organizations.

"(2) Grants under this subsection shall be made for assisting research, surveys, studies, and modeling and technical and supporting work necessary for the development of the Plan and for retaining expert consultants in support of litigation undertaken by the State of New York and the State of Vermont to compel cleanup or obtain cleanup damage costs from persons responsible for pollution of Lake Champlain.

"(3) The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of such research, survey, study and work and shall be made available on the condition that non-Federal share of such costs are provided from non-Federal sources.

"(4) The Administrator may establish such requirements for the administration of grants as he determines to be appropriate.

"(g) "LAKE CHAMPLAIN DRAINAGE BASIN" DEFINED— For the purposes of this section, the term "Lake Champlain drainage basin" means all or part of Clinton, Franklin, Warren, Essex, and Washington counties in the State of New York and all or part of Franklin,

Grand Isle, Chittenden, Addison, Rutland, Lamoille, Orange, Washington, Orleans, and Caledonia counties in Vermont, that contain all of the streams, rivers, lakes, and other bodies of water, including wetlands, that drain into Lake Champlain.

“(h) STATUTORY INTERPRETATION— Nothing in this section shall be construed so as to affect the jurisdiction or powers of—

“(1) any department or agency of the Federal Government or any State government; or

“(2) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory.

“(i) AUTHORIZATION— There are authorized to be appropriated to the Environmental Protection Agency to carry out this section \$2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

Notes on Title 33, Section 1270

SOURCE

(June 30, 1948, ch. 758, title I, Sec. 120, as added Nov. 16, 1990, Pub. L. 101-596, title III, Sec. 303, 104 Stat. 3006.)

FEDERAL PROGRAM COORDINATION

Section 304 of Pub. L. 101-596, as amended by Pub. L. 104-127, title III, Sec. 336(a)(2)(F), Apr. 4, 1996, 110 Stat. 1005, provided that: “(a) Designation of Lake Champlain as a Priority Area Under the Environmental Quality Incentives Program—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Lake Champlain basin, as defined under section 120(h) of the Federal Water Pollution Control Act (33 U.S.C. 1270(h)), shall be designated by the Secretary of Agriculture as a priority area under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

(2) TECHNICAL ASSISTANCE REIMBURSEMENT.— To carry out the purposes of this subsection, the technical assistance reimbursement from the Agricultural Stabilization and Conservation Service authorized under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), shall be increased from 5 per centum to 10 per centum.

(3) COMPREHENSIVE AGRICULTURAL MONITORING.—The Secretary, in consultation with the Management Conference and appropriate State and Federal agencies, shall develop a comprehensive agricultural monitoring and evaluation network for all major drainages within the Lake Champlain basin.

(4) ALLOCATION OF FUNDS.—In allocating funds under this subsection, the Secretary of Agriculture shall consult with the Management Conference established under section 120 of the Federal Water Pollution Control Act and to the extent allowable by law, allocate funds to those agricultural enterprises located at sites that the Management Conference determines to be priority sites, on the basis of a concern for ensuring implementation of nonpoint source pollution controls throughout the Lake Champlain basin.

(b) COOPERATION OF THE UNITED STATES GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR.—For the purpose of enhancing and expanding basic data collection and monitoring in operation in the Lake Champlain basin, as defined under section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270), the Secretary of the Interior, acting through the heads of water resources divisions of the New York and New England districts of the United States Geological Survey, shall—

(1) in cooperation with appropriate universities and private research institutions, and the appropriate officials of the appropriate departments and agencies of the States of New York and Vermont, develop an integrated geographic information system of the Lake Champlain basin;

(2) convert all partial recording sites in the Lake Champlain basin to continuous monitoring stations with full gauging capabilities and status; and

(3) establish such additional continuous monitoring station sites in the Lake Champlain basin as are necessary to carry out basic data collection and monitoring, as defined by the Secretary of the Interior, including groundwater mapping, and water quality and sediment data collection’

(c) COOPERATION OF THE UNITED STATES FISH AND WILDLIFE SERVICE OF THE DEPARTMENT OF THE INTERIOR—

(1) RESOURCE CONSERVATION PROGRAM.—The Secretary of the Interior, acting through the United States Fish and Wildlife Service, in cooperation with the Lake Champlain Fish and Wildlife Management Cooperative and the Management Conference established pursuant to this subsection shall—

(A) establish and implement a fisheries resources restoration, development and conservation program, including dedicating a level of hatchery production within the Lake Champlain basin at or above the level that existed immediately preceding the date of enactment of this Act (Nov. 16, 1990); and

(B) conduct a wildlife species and habitat assessment survey in the Lake Champlain basin, including—

(i) a survey of Federal threatened and endangered species, listed or proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), New York State and State of Vermont threatened and endangered species and other species of special concern, migratory nongame species of management concern, and national resources plan species;

(ii) a survey of wildlife habitats such as islands, wetlands, and riparian areas; and

(iii) a survey of migratory bird populations breeding, migrating and wintering within the Lake Champlain basin.

(2) To accomplish the purposes of paragraph (1), the Director of the United States Fish and Wildlife Service is authorized to carry out activities related to—

(A) controlling sea lampreys and other nonindigenous aquatic animal nuisances;

(B) improving the health of fishery resources; ’

(C) conducting investigations about and assessing the status of fishery resources, and disseminating that information to all interested parties; and

(D) conducting and periodically updating a survey of the fishery resources and their habitats and food chains in the Lake Champlain basin.

(d) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Department of Agriculture \$2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsection (a) of this section.

(2) There is authorized to be appropriated to the Department of (the) Interior \$1,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsections (b) and (c) of this section.

One Hundred Seventh Congress of the United States of America

AT THE SECOND SESSION

Began and held at the City of Washington on Wednesday,
the twenty-third day of January, two thousand and two

An Act

To amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the "Great Lakes and Lake Champlain Act of 2002".

TITLE II--LAKE CHAMPLAIN

SEC. 201. SHORT TITLE.

This title may be cited as the "Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002".

SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.

Section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) is amended--

(1) by striking the section heading and all that follows through "There is established" in subsection (a) and inserting the following:

"SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

"(a) ESTABLISHMENT-

"(1) IN GENERAL- There is established";

(2) in subsection (a) (as amended by paragraph (1)), by adding at the end the following:

"(2) IMPLEMENTATION- The Administrator--

"(A) may provide support to the State of Vermont, the State of New York, and the New England Interstate Water Pollution Control Commission for the implementation of the Lake Champlain Basin Program; and

"(B) shall coordinate actions of the Environmental Protection Agency under subparagraph (A) with the actions of other appropriate Federal agencies.";

(3) in subsection (d), by striking "(1)";

(4) in subsection (e)--

(A) in paragraph (1), by striking "hereafter in this section referred to as the 'Plan'"; and

(B) in paragraph (2)--

(i) in subparagraph (D), by striking "and" at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting: "and"; and

(iii) by adding at the end the following:

"(F) be reviewed and revised, as necessary, at least once every 5 years, in consultation with the Administrator and other appropriate Federal agencies.";

(5) in subsection (f)--

(A) in paragraph (1), by striking "the Management Conference," and inserting "participants in the Lake Champlain Basin Program,"; and

(B) in paragraph (2), by striking "development of the Plan" and all that follows and inserting "development and implementation of the Plan.";

(6) in subsection (g)--

(A) by striking "(g)" and all that follows through "the term" and inserting the following:
"(g) DEFINITIONS- In this section:

"(1) LAKE CHAMPLAIN BASIN PROGRAM- The term "Lake Champlain Basin Program" means the coordinated efforts among the Federal Government, State governments, and local governments to implement the Plan.

"(2) LAKE CHAMPLAIN DRAINAGE BASIN- The term--

(B) in paragraph (2) (as designated by subparagraph (A))--

(i) by inserting "Hamilton," after "Franklin,"; and

(ii) by inserting "Bennington," after "Rutland,"; and

(C) by adding at the end the following:

"(3) PLAN- The term "Plan" means the plan developed under subsection (e).";

(7) by striking subsection (h) and inserting the following:

"(h) NO EFFECT ON CERTAIN AUTHORITY- Nothing in this section--

"(1) affects the jurisdiction or powers of--

"(A) any department or agency of the Federal Government or any State government; or

"(B) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory;

"(2) provides new regulatory authority for the Environmental Protection Agency; or

"(3) affects section 304 of the Great Lakes Critical Programs Act of 1990 (Public Law 101-596, 33 U.S.C. 1270 note)."; and

(8) in subsection (i)--

(A) by striking "section \$2,000,000" and inserting "section--

"(1) \$2,000,000";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(2) such sums as are necessary for each of fiscal years 1996 through 2003; and

"(3) \$11,000,000 for each of fiscal years 2004 through 2008.".

APPROVED

NOV 27 2002

UNITED STATES SENATE

WASHINGTON DC 20510

LAKE CHAMPLAIN SPECIAL DESIGNATION ACT STATEMENT OF LEGISLATIVE INTENT

Three short years ago we began our efforts to create the "Lake Champlain Special Designation Act." Through speeches, hearings, mark-ups and floor statements, each one of us has made recommendations that would ultimately lead to this all encompassing effort. The legislative history reflects the comments and concerns of residents, governmental agencies and Congressional colleagues.

As the Lake Champlain Management Conference embarks on its historic first meeting, we would like to summarize the history and intent of the federal legislation establishing the Conference. As the sponsors of the legislation in the U.S. Senate, we have drawn upon our own recollections and records in order to convey the sense of purpose which led to this Act being passed by Congress and signed into law by President Bush.

While the desire to achieve and maintain good water quality is an overriding concern, the issues surrounding the Lake Champlain basin are much more comprehensive and complex than can be described by mere chemical and physical measurements. And while it may have been the abundance of fish life in the lake that first attracted native Americans, it was along the shore that they would live, and it was also from the woods and hills that they would take their food. Later, as European settlers migrated from the south and from the north, the lake would provide the highway, while the land held the natural resources to transform explorers into settlers. Today, it is the lake which provides the drinking water, but it is the land within the basin which hosts the communities, be they Vermonters, New Yorkers or Canadians.

It is important that the Management Conference look beyond aspects of water quality and address all issues affecting the lake. As one Vermonter put it, "we want it all -- jobs, recreation, and environmental integrity." To meet this vision, it is important that the Management Conference be inclusive rather than exclusive in drawing up its list of issues to be addressed. The Lake Champlain Special Designation Act envisions that all aspects of human and ecological life within the basin be maintained in harmony with one another.

The significance of the Lake Champlain basin is underscored by its recent designation, by the United Nations Educational, Scientific and Cultural organization, as an International Biosphere Reserve. The historic Memorandum of Understanding on the management of Lake Champlain, signed August 23, 1988 by the Governors of Vermont and New York and the Premier of Quebec, speaks of "Lake Champlain and its watershed." And so the legislation envisions a Geographic scope to include the basin as a whole, from the spine of the Adirondacks to that of the Green Mountains; from the swift-flowing trout streams in the south to the fertile farm lands to the north.

The focal point of the Lake Champlain Special Designation Act is the convening of the Lake Champlain Management Conference to develop a comprehensive Pollution Prevention, Control and Restoration Plan. The Conference, to be staffed by personnel of EPA Regions I and II, will be broadly representative of the many parties having an interest in the welfare of the basin. We expect that once the appointments are complete, the principle of broad representation will be upheld.

The Management Conference is charged with selecting a technical advisory committee and establishing a multi-disciplinary environmental monitoring and research program. Within three years of enactment, the Conference will produce its master Plan, which will detail pollution prevention and control strategies; clarify the duties of various state and federal agencies in implementing the strategies; identify corrective actions and compliance schedules; and coordinate federal, state and private funding for carrying out these actions and schedules.

The composition of the Management Conference speaks of the breadth of involvement necessary to coordinate local, state and federal actions. Members of the Conference include citizens, legislators, regulators, researchers and educators. State and federal agencies are to be involved, as are local farmers, fishermen and businessmen. That the legislation envisioned a strong citizens role is evidenced by the statutory inclusion of a Citizens Advisory Committee. We strongly support the current CAC, and the Act is intended to reinforce, not replace, its function. This is particularly true in the area of public outreach and education.

Because the federal government must marshal its resources to consolidate and coordinate activities, the Environmental Protection Agency is given the lead management role, with specific tasks assigned to it and the Departments of Agriculture and Interior. These agencies will work together with State governments, local communities, academic institutions, and the public to develop a plan for pollution research, prevention, management and control.

Much research on Lake Champlain has already been done, although in various formats. Yet, a continuous, comprehensive data base does not exist. In formulating a comprehensive research program, the management Conference is encouraged to identify and use existing research projects and data bases, identify research needs, and establish a comprehensive data base to meet the objectives of the Act.

In addition to the activities outlined in the development of a Pollution Prevention, Control, and Restoration-Plan under Section 120(e), the Management Conference should also examine the impact of growth and development on water quality in the basin, and examine the impact of water quality degradation, as well as mitigation efforts, on cultural resources that are an important part of the region's history.

Some components of the Plan already exist or will be completed soon. As with the research program, these existing efforts should be used in the Management Conference's deliberations and incorporated into the final plan to avoid duplication of efforts and unnecessary expenditures. For example, Vermont was among the first states to have its Non-point Source Management Program approved by EPA, and New York and Vermont are currently conducting a basin-wide phosphorus management program with assistance from EPA.

The Act envisions that the EPA Administrator will make staff available to the Lake Champlain Management Conference, with at least one from Region I and one from Region II. Ideally, these staff persons will be located within the basin in order to conduct regular and periodic meetings with members of the Management Conference, the Citizens Advisory Committee, the Technical Advisory Committee, the Research Consortium and other interested parties.

The Administrator is authorized to make grants to public and private agencies and organizations for the purpose of supporting work necessary for the development of the Plan, and to maintain long-term research efforts necessary to establish a comprehensive data base for the Lake Champlain basin. The Administrator is to consult with the Technical Advisory Committee and the Lake Champlain Research Consortium in developing a multi-disciplinary environmental research program for the basin, giving priority to initiatives recommended by these groups.

In issuing grants to non-federal organizations, the Administrator may fund demonstration and pilot projects for purposes of assessing the feasibility of such projects as mitigation techniques. The Administrator may also fund joint requests by the States of New York and Vermont.

Funds appropriated to the EPA should be evenly distributed on an annual basis between the Management Conference, Grant Program and Research Program. It is recognized, however, that appropriations distributions will, and in some cases should, vary to meet annual priorities within these program areas.

The Lake Champlain Special Designation Act designates the lake basin as a Special Project Area under the Agriculture Conservation Program. While attention should be given to the basin as a whole, current projects conducted by the Department of Agriculture which have proven to be successful in reducing phosphorus and nonpoint sources of pollution should be continued. The Act seeks to enhance, not replace, such efforts.

In order to expand monitoring efforts within the basin, we believe the Secretary of Agriculture should develop a comprehensive monitoring and evaluation network for all major drainages within the basin. Whenever practical, monitoring and associated research shall be developed and conducted jointly with existing efforts in the basin.

The Act also provides for Department of Interior programs. Although the U.S. Geological Survey and Fish and Wildlife Service have limited new authorities, we have always envisioned a much greater effort is needed and should be addressed by the Management Conference. If the Conference identifies areas where state or federal agencies are limited by their current authorities, the Plan should recommend amendments to be pursued by state and federal representatives.

The Secretary of the Interior, acting through the heads of the water resources divisions, should develop an integrated geographic information system (GIS) for the basin. Whenever practical, monitoring and associated research should be developed and conducted jointly with extension efforts within the basin.

Lake Champlain played an essential role in the War of Independence and then in the War of 1812. The lake and its basin hold important regional and national significance. Within this historical archeological context, the Department of Interior plays an important role in protecting cultural resources. The Secretary of the Interior, acting through the National Park Service, is encouraged to consult with the management Conference in carrying out historic preservation and natural landmark programs with the basin. Of special interest is the survey and inventory of lakeshore and underwater historical and archeological resources.

In order to improve and maintain the health of wildlife and fishery resources within the basin, the Fish and Wildlife Service should expand its efforts there. Special attention should be given to threatened and endangered species and their habitats, and to migratory species. Recognizing that aquatic nuisance species are causing great damage to the fishery resources in the basin, the Secretary of the Interior is given clear authority to conduct lamprey control activities and other salmonid restoration work. The secretary should also use, as appropriate, equipment purchased with funds provided through the Great Lakes Fishery Commission.

We also note that appropriated funds for the Department of the Interior should be judiciously distributed between the Geological Survey and the Fish and Wildlife Service, including consideration for the Cooperative Research Unit, and based on annual needs and the priorities of the Management Conference. We intend that funds would be made available by the E.P.A. to the U.S. Corps of Engineers to enable it to provide technical assistance in areas that the Management Conference deems appropriate.

Today, New Yorkers and Vermonters are embarking on one of the nation's first all-encompassing pollution prevention efforts. Again, we ask that the Conferees think comprehensively. The resources of the Lake Champlain basin -- human, cultural and natural -- are precious commodities. We are honored to have helped establish this cooperative Management Conference, and look forward to actions and recommendations to promote a healthier Lake Champlain.

Signed by Senators:

Patrick J. Leahy (VT)
James M. Jeffords (VT)
Daniel Patrick Moynihan (NY)
Alfonse M. D' Amato (NY)

November, 1990