

Pickett	Seastrand	Thomas
Pombo	Sensenbrenner	Thornberry
Pomeroy	Shadegg	Thurman
Porter	Shaw	Tiahrt
Portman	Shuster	Torkildsen
Poshard	Sisisky	Trafciant
Pryce	Skaggs	Upton
Quillen	Skeen	Volkmer
Quinn	Skelton	Vucanovich
Radanovich	Smith (MI)	Waldholtz
Ramstad	Smith (TX)	Walker
Reed	Smith (WA)	Walsh
Regula	Solomon	Wamp
Riggs	Souder	Weldon (FL)
Roberts	Spence	Weldon (PA)
Roemer	Spratt	Weller
Rohrabacher	Stearns	White
Ros-Lehtinen	Stenholm	Whitfield
Rose	Stockman	Wicker
Roth	Stump	Williams
Royce	Stupak	Wilson
Salmon	Talent	Wise
Sanford	Tate	Wolf
Sawyer	Tauzin	Young (AK)
Scarborough	Taylor (MS)	Zeliff
Schaefer	Taylor (NC)	Zimmer
Schiff	Tejeda	

NOT VOTING—29

Abercrombie	Hancock	Peterson (FL)
Barton	Kleccka	Rangel
Bono	Martini	Richardson
Boucher	MEEK	Rogers
Collins (IL)	Miller (CA)	Schumer
Collins (MI)	Mink	Tanner
Dicks	Moakley	Torres
Dunn	Nussle	Watts (OK)
Fattah	Ortiz	Young (FL)
Frisa	Pastor	

So the amendment was not agreed to. After some further time,

64.25 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. VISCLOSKEY:

Page 82, after line 21, insert the following:  
(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

“(i) NATIONAL CLEAN WATER TRUST FUND.—“(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the ‘Fund’) consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

“(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

“(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary’s judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the date of redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

“(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United

States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

“(5) SELECTION OF PROJECTS.—

“(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

“(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

“(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

“(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

“(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.”.

“(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

“(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: ‘The court may, in the court’s discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.’.

“(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ‘, including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)’.”.

It was decided in the { Yeas ..... 156  
negative ..... } Nays ..... 247

64.26 [Roll No. 325]  
AYES—156

Abercrombie	DeLauro	Forbes
Andrews	Dellums	Ford
Barcia	Deutsch	Fox
Becerra	Dicks	Frank (MA)
Beilenson	Dingell	Frost
Berman	Dixon	Furse
Boehlert	Doggett	Gejdenson
Bonior	Dooley	Gephardt
Borski	Durbin	Gibbons
Brown (CA)	Ehlers	Gilchrest
Brown (OH)	Engel	Gilman
Burr	Ensign	Gonzalez
Castle	Eshoo	Gordon
Clay	Evans	Green
Clement	Farr	Greenwood
Clyburn	Fawell	Gunderson
Condit	Fazio	Gutierrez
Conyers	Fields (LA)	Hall (OH)
Costello	Filner	Hastings (FL)
Coyne	Flake	Heineman
DeFazio	Foglietta	Hinchev

Horn	Mineta	Serrano
Hoyer	Mink	Sisisky
Jackson-Lee	Moran	Skaggs
Jacobs	Morella	Slaughter
Jefferson	Nadler	Smith (NJ)
Johnson (CT)	Neal	Souder
Johnson (SD)	Oberstar	Spratt
Johnson, E. B.	Obey	Stark
Kaptur	Olver	Stokes
Kennedy (MA)	Owens	Studds
Kennedy (RI)	Pallone	Stupak
Kennelly	Payne (NJ)	Thompson
Kildee	Payne (VA)	Torricelli
Klink	Pelosi	Towns
Lantos	Peterson (MN)	Trafciant
Lewis (GA)	Pomeroy	Tucker
Lincoln	Porter	Upton
Lipinski	Portman	Velazquez
LoBiondo	Poshard	Vento
Lowey	Rahall	Visclosky
Luther	Ramstad	Ward
Maloney	Rangel	Waters
Manton	Reed	Watt (NC)
Markey	Reynolds	Waxman
Martinez	Richardson	Weldon (PA)
McDermott	Roybal-Allard	Wise
McHale	Rush	Woolsey
McKinney	Sabo	Wyden
Meehan	Sawyer	Wynn
Menendez	Saxton	Yates
Metcalf	Schroeder	Zimmer

NOES—247

Allard	Dornan	Laughlin
Archer	Doyle	Lazio
Armey	Dreier	Leach
Bachus	Duncan	Levin
Baesler	Edwards	Lewis (CA)
Baker (CA)	Ehrlich	Lewis (KY)
Baker (LA)	Emerson	Lightfoot
Baldacci	English	Linder
Barr	Everett	Livingston
Barrett (NE)	Ewing	Lofgren
Barrett (WI)	Fields (TX)	Longley
Bartlett	Flanagan	Lucas
Bass	Foley	Manzullo
Bateman	Fowler	Martini
Bentsen	Franks (CT)	Mascara
Bereuter	Franks (NJ)	Matsui
Bevill	Frelinghuysen	McCarthy
Bilbray	Funderburk	McColumm
Bilirakis	Galleghy	McCrary
Bishop	Ganske	McDade
Bliley	Gekas	McHugh
Blute	Geren	McInnis
Boehner	Gillmor	McIntosh
Bonilla	Goodlatte	McKeon
Brewster	Goodling	Meyers
Browder	Goss	Mica
Brownback	Graham	Miller (FL)
Bryant (TN)	Gutknecht	Minge
Bryant (TX)	Hall (TX)	Molinar
Bunn	Hamilton	Mollohan
Bunning	Hansen	Montgomery
Burton	Hastert	Moorhead
Buyer	Hastings (WA)	Murtha
Callahan	Hayes	Myers
Calvert	Hayworth	Myrick
Camp	Hefley	Nethercutt
Canady	Hefner	Neumann
Cardin	Herger	Ney
Chabot	Hillery	Norwood
Chambliss	Hilliard	Nussle
Chapman	Hobson	Orton
Chenoweth	Hoekstra	Oxley
Christensen	Hoke	Packard
Chrysler	Holden	Parker
Clayton	Hostettler	Paxon
Clinger	Houghton	Petri
Coble	Hunter	Pickett
Coburn	Hutchinson	Pombo
Coleman	Hyde	Pryce
Collins (GA)	Inglis	Quillen
Combest	Johnson, Sam	Quinn
Cooley	Jones	Radanovich
Cox	Kanjorski	Regula
Cramer	Kasich	Rivers
Crane	Kelly	Roberts
Crapo	Kim	Roemer
Creameans	King	Rohrabacher
Cubin	Kingston	Ros-Lehtinen
Cunningham	Kleccka	Rose
Danner	Klug	Roth
Davis	Knollenberg	Royce
de la Garza	Kolbe	Salmon
Deal	LaFalce	Sanford
DeLay	LaHood	Scarborough
Diaz-Balart	Largent	Schaefer
Dickey	Latham	Schiff
Doolittle	LaTourette	

Scott	Stockman	Waldholtz
Seastrand	Stump	Walker
Sensenbrenner	Talent	Walsh
Shadegg	Tate	Wamp
Shaw	Tauzin	Weldon (FL)
Shays	Taylor (MS)	Weller
Shuster	Taylor (NC)	White
Skeen	Tejeda	Whitfield
Skelton	Thomas	Wicker
Smith (MI)	Thornberry	Williams
Smith (TX)	Thornton	Wilson
Smith (WA)	Thurman	Wolf
Solomon	Tiaht	Young (AK)
Spence	Torkildsen	Zeliff
Stearns	Volkmer	
Stenholm	Vucanovich	

NOT VOTING—31

Ackerman	Hancock	Peterson (FL)
Ballegger	Harman	Rogers
Barton	Istook	Roukema
Bono	Johnston	Sanders
Boucher	McNulty	Schumer
Brown (FL)	Meek	Tanner
Collins (IL)	Mfume	Torres
Collins (MI)	Miller (CA)	Watts (OK)
Dunn	Moakley	Young (FL)
Fattah	Ortiz	
Frisa	Pastor	

So the amendment was not agreed to. After some further time,

¶64.27 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following substitute amendment submitted by Mr. LAUGHLIN for the amendment submitted by Mr. EMERSON: Amendment submitted by Mr. LAUGHLIN:

Page 213, after line 5, insert the following: SEC. 507. DISPUTE RESOLUTION.

(a) IN GENERAL.—Section 401 of the Federal Water Pollution Control Act does not apply with respect to the licensing of a hydroelectric project under Part I of the Federal Power Act if the relevant federal agency makes the determination referred to in subsection (b) in accordance with the mechanism described in subsection (c).

(b) DETERMINATION.—The determination referred to in subsection (a) is a specific determination that a denial, condition, or requirement of a certification under section 401 of the Federal Water Pollution Control Act for such a project is inconsistent with the purposes and requirements of Part I of the Federal Power Act.

(c) MECHANISM.—The dispute resolution mechanism for purposes of subsection (a) shall be a mechanism established by the relevant federal agency in consultation with the Administrator and the States, for resolving any conflicts or unreasonable consequences resulting from actions taken under section 401 by a State, an interstate water pollution control agency or the Administrator relating to the issuance of a license (or to activities under such license) for a hydroelectric project under Part I of the Federal Power Act. Such mechanism shall include, at a minimum, a process whereby: (1) the relevant federal agency, in coordination with the State, the interstate agency or the Administrator (as the case may be) may determine whether any denial, condition or requirement under section 401 of the Federal Water Pollution Control Act relating to the issuance of such license or to activities under such license is inconsistent with the purposes and requirements of Part I of the Federal Power Act; (2) such denial, condition, or requirement shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act if based on temperature, turbidity or other objective water quality criteria regulating discharges of pollutants; and (3) any denial, condition, or requirement not based on such

criteria shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act unless the relevant federal agency, after attempting to resolve any inconsistency, makes a specific determination under subsection (b) and publishes such determination together with the basis for such determination in the license or other appropriate order.

Amendment submitted by Mr. EMERSON:

Insert the following new section into H.R. 961:

SEC. FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after "subject to section 10 of the Act of March 3, 1899," the following, and by renumbering the remaining paragraph accordingly:

"(3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §§791 et seq.);".

It was decided in the affirmative } Yeas ..... 309 } Nays ..... 100

¶64.28 [Roll No. 326] AYES—309

Allard	Cramer	Hansen
Andrews	Crane	Hastert
Archer	Crapo	Hastings (WA)
Armey	Creameans	Hayes
Bachus	Cubin	Hayworth
Baesler	Cunningham	Hefley
Baker (CA)	Danner	Hefner
Baker (LA)	Davis	Heineman
Ballegger	de la Garza	Herger
Barcia	Deal	Hilleary
Barr	DeLay	Hilliard
Barrett (NE)	Diaz-Balart	Hobson
Bartlett	Dickey	Hoekstra
Bass	Dicks	Hoke
Bateman	Dingell	Holden
Bender	Doggett	Horn
Bereuter	Dooley	Hostettler
Bevill	Doolittle	Houghton
Bilbray	Dornan	Hoyer
Bilirakis	Doyle	Hunter
Bishop	Dreier	Hutchinson
Bliley	Duncan	Hyde
Blute	Edwards	Inglis
Boehlert	Ehlers	Jacobs
Boehner	Ehrlich	Johnson (SD)
Bonilla	Emerson	Johnson, E. B.
Borski	English	Johnson, Sam
Brewster	Everett	Jones
Browder	Ewing	Kanjorski
Brown (CA)	Farr	Kaptur
Brown (FL)	Fattah	Kasich
Brownback	Fawell	Kelly
Bryant (TN)	Fazio	Kennelly
Bryant (TX)	Fields (TX)	Kim
Bunn	Flanagan	King
Bunning	Foley	Kingston
Burr	Forbes	Kleczka
Burton	Fowler	Klink
Buyer	Fox	Klug
Callahan	Franks (CT)	Knollenberg
Calvert	Franks (NJ)	Kolbe
Camp	Frelinghuysen	LaFalce
Canady	Frost	LaHood
Cardin	Funderburk	Largent
Castle	Gallely	Latham
Chabot	Ganske	LaTourette
Chambliss	Gekas	Laughlin
Chapman	Gephardt	Lazio
Chenoweth	Geren	Leach
Christensen	Gillmor	Lewis (CA)
Chrysler	Gilman	Lewis (KY)
Clayton	Gonzalez	Lightfoot
Clement	Goodlatte	Linder
Clinger	Goodling	LoBiondo
Clyburn	Gordon	Longley
Coble	Goss	Lucas
Coburn	Graham	Luther
Coleman	Green	Manton
Collins (GA)	Greenwood	Manzullo
Combest	Gunderson	Martinez
Condit	Gutknecht	Martini
Cooley	Hall (OH)	Mascara
Costello	Hall (TX)	Matsui
Cox	Hamilton	McCollum

McCrery	Quillen	Stearns
McDade	Quinn	Stenholm
McHale	Radanovich	Stockman
McHugh	Ramstad	Stump
McIntosh	Regula	Stupak
McKeon	Riggs	Talent
McNulty	Roberts	Tate
Metcalfe	Roemer	Tauzin
Mica	Rohrabacher	Taylor (MS)
Miller (FL)	Ros-Lehtinen	Taylor (NC)
Minge	Rose	Tejeda
Molinari	Roth	Thomas
Mollohan	Roukema	Thornberry
Montgomery	Royce	Thornton
Moorhead	Salmon	Thurman
Moran	Sanford	Tiaht
Morella	Sawyer	Torkildsen
Murtha	Saxton	Traficant
Myers	Scarborough	Upton
Myrick	Schaefer	Visclosky
Nethercutt	Schiff	Volkmer
Neumann	Scott	Vucanovich
Ney	Seastrand	Waldholtz
Norwood	Sensenbrenner	Walker
Nussle	Shadegg	Walsh
Orton	Shaw	Wamp
Oxley	Shays	Ward
Packard	Shuster	Weldon (FL)
Parker	Siskiy	Weldon (PA)
Paxon	Skeen	Weller
Peterson (MN)	Skelton	White
Petri	Smith (MI)	Whitfield
Pickett	Smith (NJ)	Wicker
Pombo	Smith (TX)	Wilson
Pomeroy	Smith (WA)	Wise
Porter	Solomon	Wolf
Portman	Souder	Young (AK)
Poshard	Spence	Zeliff
Pryce	Spratt	Zimmer

NOES—100

Abercrombie	Hinchey	Payne (VA)
Ackerman	Jackson-Lee	Pelosi
Baldacci	Jefferson	Rahall
Barrett (WI)	Johnson (CT)	Rangel
Becerra	Johnston	Reed
Beilenson	Kennedy (MA)	Reynolds
Berman	Kennedy (RI)	Richardson
Bonior	Kildee	Rivers
Brown (OH)	Lantos	Roybal-Allard
Clay	Levin	Rush
Conyers	Lewis (GA)	Sabo
Coyne	Lincoln	Sanders
DeFazio	Lipinski	Schroeder
DeLauro	Lofgren	Serrano
Dellums	Lowey	Skaggs
Deutsch	Maloney	Slaughter
Dixon	Markey	Stokes
Durbin	McCarthy	Studds
Engel	McDermott	Thompson
Ensign	McInnis	Torricelli
Eshoo	McKinney	Towns
Evans	Meehan	Tucker
Fields (LA)	Menendez	Velazquez
Filner	Meyers	Vento
Flake	Mineta	Waters
Foglietta	Mink	Watt (NC)
Ford	Nadler	Waxman
Frank (MA)	Neal	Williams
Furse	Oberstar	Woolsey
Gejdenson	Obey	Wyden
Gibbons	Olver	Wynn
Gilchrest	Owens	Yates
Gutierrez	Pallone	
Hastings (FL)	Payne (NJ)	

NOT VOTING—25

Barton	Istook	Rogers
Bono	Livingston	Schumer
Boucher	Meek	Stark
Collins (IL)	Gallely	Tanner
Collins (MI)	Mfume	Torres
Dunn	Miller (CA)	Watts (OK)
Frisa	Moakley	Young (FL)
Hancock	Ortiz	
Harman	Pastor	
	Peterson (FL)	

So the amendment to the amendment was agreed to.

After some further time,

The SPEAKER pro tempore, Mr. WELLER, assumed the Chair.

When Mr. McINNIS, Chairman, reported that the Committee, having had under consideration said bill, had come to no resolution thereon.