

NOES—293

- Allard
- Allen
- Anderson
- Andrews (TX)
- Annunzio
- Archer
- Armye
- Bacchus
- Baker
- Ballengier
- Barnard
- Barrett
- Barton
- Bateman
- Bennett
- Bereuter
- Bevill
- Bilbray
- Bilirakis
- Biley
- Boehner
- Boucher
- Brewster
- Brooks
- Broomfield
- Browder
- Brown
- Bunning
- Burton
- Bustamante
- Byron
- Callahan
- Campbell (CO)
- Carper
- Carr
- Chandler
- Chapman
- Clement
- Clinger
- Coble
- Coleman (MO)
- Collins (MI)
- Combest
- Condit
- Conyers
- Cooper
- Costello
- Coughlin
- Cox (CA)
- Coyne
- Cramer
- Crane
- Cunningham
- Darden
- Davis
- DeFazio
- DeLay
- Derrick
- Dickinson
- Dicks
- Dingell
- Dooley
- Doolittle
- Dornan (CA)
- Dreier
- Duncan
- Dwyer
- Eckart
- Edwards (OK)
- Edwards (TX)
- Emerson
- English
- Erdreich
- Espy
- Ewing
- Fascell
- Fazio
- Fields
- Ford (MI)
- Frost
- Gallegly
- Gallo
- Gaydos
- Gephardt
- Geren
- Gibbons
- Gilchrist
- Gillmor
- Gingrich
- Glickman
- Gonzalez
- Goodling
- Gordon
- Goss
- Gradison
- Grandy
- Green
- Gunderson
- Hall (TX)
- Hamilton
- Hammerschmidt
- Hancock
- Hansen
- Harris
- Hastert
- Hatcher
- Hayes (IL)
- Hayes (LA)
- Hefley
- Hefner
- Henry
- Herger
- Hoagland
- Hobson
- Holloway
- Hopkins
- Horn
- Horton
- Hoyer
- Hubbard
- Huckaby
- Hunter
- Hutto
- Hyde
- Inhofe
- James
- Jenkins
- Johnson (TX)
- Johnston
- Jones (GA)
- Jones (NC)
- Kanjorski
- Kasich
- Kleczka
- Klug
- Kolbe
- Kolter
- Kopetski
- Kyl
- LaFalce
- Lancaster
- Lantos
- LaRocco
- Laughlin
- Leach
- Lehman (CA)
- Lehman (FL)
- Lent
- Levin (MI)
- Lewis (CA)
- Lewis (FL)
- Lightfoot
- Lipinski
- Livingston
- Lloyd
- Long
- Lowery (CA)
- Machtley
- Manton
- Marlenee
- Martin
- McCandless
- McCollum
- McCrery
- McEwen
- McGrath
- McMillan (NC)
- McMillen (MD)
- Meyers
- Miller (OH)
- Miller (WA)
- Mink
- Mollohan
- Montgomery
- Moody
- Moorhead
- Moran
- Morella
- Morrison
- Murphy
- Murtha
- Myers
- Nagle
- Nichols
- Nussle
- Oberstar
- Obey
- Olin
- Orton
- Owens (UT)
- Oxley
- Parker
- Pastor
- Patterson
- Paxon
- Payne (VA)
- Pease
- Penny
- Perkins
- Peterson (FL)
- Peterson (MN)
- Petri
- Pickett
- Pickle
- Porter
- Poshard
- Price
- Quillen
- Ramstad
- Ravenel
- Ray
- Regula
- Rhodes
- Ridge
- Riggs
- Rinaldo
- Ritter
- Roberts
- Roe
- Roemer
- Rogers
- Rohrabacher
- Ros-Lehtinen
- Rostenkowski
- Roth
- Roukema
- Rowland
- Russo
- Sabo
- Sangmeister
- Santorum
- Sarpalius
- Sawyer
- Saxton
- Schaefer
- Scheuer
- Schiff
- Schulze
- Sensenbrenner
- Shaw
- Shuster
- Sisisky
- Skaggs
- Skeen
- Skelton
- Slattery
- Smith (FL)
- Smith (IA)
- Smith (NJ)
- Smith (OR)
- Smith (TX)
- Solomon
- Spence
- Spratt
- Staggers
- Stallings
- Stearns
- Stenholm
- Stump
- Sundquist
- Sweet
- Swift
- Synar
- Tallon
- Tanner
- Tauzin
- Taylor (MS)
- Taylor (NC)
- Thomas (CA)
- Thomas (GA)
- Thomas (WY)
- Thornton
- Trafficant
- Traxler
- Valentine
- Vander Jagt
- Vento
- Visclosky
- Volkmer
- Vucanovich
- Walker
- Weldon
- Whitten
- Williams
- Wilson
- Wise
- Wolf
- Wylie
- Yatron
- Young (AK)
- Young (FL)
- Zeliff
- Zimmer

ANSWERED "PRESENT"—1

Sharp
NOT VOTING—23

- Alexander
- Anthony
- Bentley
- Boxer
- Bruce
- Campbell (CA)
- Collins (IL)
- Dannemeyer
- Donnelly
- Dymally
- Guarini
- Ireland
- Lagomarsino
- Levine (CA)
- Martinez
- Matsui
- Mavroules
- McDade
- Michel
- Oakar
- Packard
- Torricelli
- Towns

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

160.9 RECORDED VOTE

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

Amendment submitted by Mr. DINGELL:

Strike sections 3101 through 3104 and insert in lieu thereof the following, and make the necessary conforming changes in the table of contents:

SEC. 3101. STATE OR LOCAL GOVERNMENT LANDS

Section 21 of the Federal Power Act is amended as follows:

(1) In the first sentence after the word "right" insert " , temporarily during project construction,".

(2) In the first sentence after the word "damage" insert "(and to restore and repair),".

(3) After the first sentence insert: "The term 'unimproved dam site' shall not include any site or area that was acquired by a State or local government or agency thereof solely for the purposes of a public park, recreation, or wildlife refuge before the date such license is issued a license by the Commission and is owned and operated for such purposes, except that nothing in this sentence shall preclude a State or local government from consenting to the acquisition of such site or area with the licensee." The amendments made by this section to section 21 of the Federal Power Act shall apply to the exercise of eminent domain by any licensee under such section after the date of this Act.

SEC. 3102. APPLICATION OF CERTAIN STATE LAWS.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 32. APPLICATION OF CERTAIN STATE LAWS.

"If, prior to the filing of any application by any person for an original license under this Act, a State has previously enacted a law (after the Governor of such State has provided prior and timely notice of the State's intention to enact such a law to the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, and the Chairman of the Commission, affording each an opportunity of at least 90 days to comment to the Governor and to the State legislature) specifically prohibiting, as part of a comprehensive State plan, development of hydroelectric power facilities and similar facilities, in order to protect permanently specific natural river segments within the State, including adjacent lands, the Commission, in any licensing proceeding, shall afford such State law a rebuttable presumption that issuance of a license for a hydroelectric project on such segments is not desirable and justified in the public interest. Notwithstanding any such State law, any person may apply to the Commission for a license under this part to construct a project on any such segment, and if such applicant rebuts such presumption, the Commission

may, pursuant to a majority vote, after taking into consideration the provisions of section 4(e) and 10, issue a license under this part for such project. Nothing in this section shall apply to the issuance of a new license under section 15 for any existing facility in a relicensing proceeding under this Act."

SEC. 3103. TECHNICAL CORRECTION.

Section 31(c) of the Federal Power Act is amended by striking out "or exemptee" and inserting "exemptee or other person".

SEC 3104. PUBLIC LANDS.

Section 24 of the Federal Power Act (16 U.S.C. 818) is amended by adding the following at the end thereof: "Any lands of the United States reserved as a power site pursuant to this section which are public lands within the meaning of section 103(e) of the Federal Land Policy and Management Act of 1976 shall be considered to be public lands for purposes of section 501 of that Act notwithstanding such reservation, and any reference in such section 501 to 'the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791)' shall be considered to be a reference to this act, including this part.". Nothing in this section shall apply to the issuance of a new license under section 15 of the Federal Power Act for any existing facility in a relicensing proceeding under that Act.

Amendment submitted by Mr. MILLER of California:

Page 752, after line 16, insert the following:
TITLE XXXI—FEDERAL AND STATE LANDS

SEC. 3101. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

(a) EXTENT OF RIGHTS.—(1) Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding at the end of subsection (b)(1) thereof the following: "Any right-of-way granted or issued under this section shall convey only the rights specifically described therein, and shall not convey or be construed to imply conveyance of any rights to the use of the affected lands or the resources of such lands.".

(2) Section 501 of such Act is amended as follows:

(A) Insert in subsection (a), after "public lands" the following: "(as defined in section 103(e) of this Act)".

(B) In paragraph (4) of subsection (a), strike "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791) and insert in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a-825r)".

(b) ENERGY-RELATED RIGHTS-OF-WAY.—Section 501 of the Federal Land Policy and Management Act of 1976 is amended by adding at the end thereof a new subsection, as follows:

"(d)(1) Under this section, a right-of-way on public lands or lands within the National Forest System may be granted or issued for the construction or operation of a non-Federal system (including any dam, diversion, or appurtenant project works) for the generation, transmission, or distribution of electrical energy only if the Secretary or the Secretary of Agriculture, as appropriate, finds that the use of such lands for the construction or operation of the facilities involved in such system—

"(A) is consistent with applicable management plans for such lands, and will not interfere with or be inconsistent with the protection and utilization of such lands for the purposes for which such lands are managed; and

"(B) will not result in substantial degradation of natural or cultural resources, scenic or recreational values, watershed resources, or fish and wildlife populations or habitat affected by the proposed system or affected by the cumulative effects of the proposed system and other uses of such lands or adjacent lands.

“(2)(A) The Secretary concerned shall provide for early and continued public participation in connection with consideration of an application for a right-of-way under this subsection by making a copy of such application available for public inspection in the vicinity of the affected lands for at least 90 days prior to acting on the application and by conducting at least 1 public meeting thereon at a time and location likely to assure public participation.

“(B) All information, including documents and testimony, related to the concerned Secretary’s decision on an application under this subsection shall be available for public inspection in regional or local offices of the Bureau of Land Management or Forest Service, and at the same time as such Secretary decides whether or not to grant or issue the requested right-of-way, such Secretary shall publish in the Federal Register an appropriate document stating and explaining the basis for such decision.

“(3)(A) If facilities of a system described in paragraph (1) would be located on lands under the administrative jurisdiction of a single agency of the United States, that agency shall have the principal role in preparing any analysis, under applicable law, of the effects of construction and operation of such facilities on the environment. If such facilities would be located on lands under the administrative jurisdiction of more than 1 such agency, each such agency involved may enter into an agreement among themselves in order to avoid duplication of responsibility or effort, to expedite the consideration of applications for rights-of-way or other rights with respect to use of such lands, to issue joint regulations in appropriate cases, and to assure that decisions about such system are based on a comprehensive review of possible effects on Federal lands and resources.

“(B) Any analysis described in subparagraph (A) of this paragraph shall be prepared by an agency of the United States with administrative jurisdiction over affected lands, or by an independent contractor selected by such an agency, and not by the applicant for a right-of-way under this subsection or by any other party selected or reimbursed by such applicant.

“(C) Nothing in this paragraph shall be construed as precluding an agency of the United States from requiring an applicant for a right-of-way under this section or any other party to provide any necessary information in connection with an analysis described in subparagraph (A) or in connection with decisions about any other aspect of a system described in paragraph (1) of this subsection.”

(c) EFFECTIVE DATE AND IMPLEMENTATION.—(1) The amendments to the Federal Land Policy and Management Act of 1976 made by this section shall not apply to any project for which the land-management agency has completed a final review of an application for a right-of-way prior to the enactment of this section.

(2) No later than 1 year after the date of enactment of this Act, the Secretaries of the Interior and Agriculture shall issue joint regulations to:

(A) establish procedures for appropriate public participation in decisions relating to applications for rights-of-way of the type covered by section 501(d) of the Federal Land Policy and Management Act of 1976; and

(B) establish procedures to coordinate, so far as possible, the timing of review by such Secretaries regarding such applications with review of related projects by other Federal agencies.

SEC. 3102. DAMS IN NATIONAL PARKS.

(a) PROHIBITION.—(1) Except as provided in paragraph (2), no individual corporation, partnership, Federal or State agency, politi-

cal subdivision, or any other legal entity may commence construction of—

(A) any new dam or other new impoundment within the external boundaries of any unit of the National Park System; or

(B) any new dam or other new impoundment which, after the date of enactment of this Act, will inundate any land within the external boundaries of any unit of the National Park System.

(2) The provisions of this subsection shall not apply to a project developed by the National Park Service that the Secretary of the Interior determines necessary to meet the purposes for which the affected unit of the National Park System was established if such project would not degrade the resources or values of such unit.

(b) DEFINITIONS.—For purposes of this section, the following terms shall have the following meanings:

(1) The term “new dam or other new impoundment” means any facility for impoundment or obstruction of the flow of water, construction of which commences after the enactment of this Act.

(2) The term “impoundment” means the formation of a body of water upstream from a dam or other structure caused by the construction or operation of the dam or other structure.

(3) The term “inundate” means to permanently or intermittently cover land with water.

(c) CONCURRENCE.—Notwithstanding any other provision of law, no department or agency of the United States shall renew or reissue any license, or issue a new license, for any dam or other facility for impoundment or obstruction of the flow of water that is located on or that inundates any land within the National Park System, if such action would result in new or increased effects on the resources and values of such land, unless the Secretary of the Interior concurs in such action.

(d) SCOPE.—The prohibition of this section shall be in addition to, and not in lieu of, any other prohibition or restriction on activities within any unit of the National Park System.

(e) OTHER PROJECTS.—Nothing in this section prohibits the Secretary of the Army or any other Federal department or agency from undertaking a study of any project or from submitting a recommendation to Congress for the authorization or licensing of such project.

SEC. 3103. STATE OR LOCAL GOVERNMENT LANDS.

Section 21 of the Federal Power Act is amended as follows:

(1) In the first sentence after the word “right” insert “, temporarily during project construction,”

(2) In the first sentence after the word “damage” insert “(and to restore and repair).”

(3) After the first sentence insert: “The term ‘unimproved dam site’ shall not include any site or area that was acquired by a State or local government or agency thereof solely for the purposes of a public park, recreation, or wildlife refuge before the date such licensee is issued a license by the Commission and is owned and operated for such purposes, except that nothing in this sentence shall preclude a State or local government from consenting to the acquisition of such site or area with the licensee.”

The amendments made by this section to section 21 of the Federal Power Act shall apply to the exercise of eminent domain by any licensee under such section after the date of enactment of this Act.

SEC. 3104. COORDINATION WITH FEDERAL AGENCIES.

Section 6(g) of the Land and Water Conservation Fund Act of 1965 is amended by in-

serting the following at the end thereof: “If a State has enacted statutory provisions providing for the permanent protection of the natural, ecological, cultural, scenic, or recreational resources of designated river segments within that State, if such protection is part of a comprehensive Statewide plan approved by the Secretary of the Interior under section 6, and if such provisions prohibit the development of new hydroelectric power projects on such designated segments, neither the Secretary nor any other officer or agent of the United States (other than the Secretary of the Army or the Chief of the United States Soil Conservation Service) shall assist or issue an original license or an exemption for the construction of any new hydroelectric power project if the project is located wholly within that State and if such assistance, license, or exemption would be inconsistent with such prohibition. The preceding sentence shall not apply to any project authorized for construction by the Secretary of the Army before, on, or after the date of the enactment of this section and not subsequently deauthorized pursuant to the provisions of Title X of Public Law 99-662 or any other provision of law.”

It was decided in the } Yeas 195
negative } Nays 221

¶60.10	[Roll No. 142]	
	AYES—195	
Allard	Gibbons	Miller (OH)
Anderson	Gillmor	Molinari
Archer	Gingrich	Mollohan
Armey	Goodling	Montgomery
Baker	Goss	Moorhead
Ballenger	Gradison	Murtha
Barnard	Grandy	Myers
Barrett	Gunderson	Nichols
Barton	Hall (TX)	Nussle
Bateman	Hamilton	Ortiz
Bevill	Hammerschmidt	Orton
Bilirakis	Hancock	Oxley
Bliley	Hansen	Parker
Boehner	Harris	Patterson
Bonior	Hastert	Paxon
Boucher	Hatcher	Payne (VA)
Brewster	Hayes (LA)	Price
Broomfield	Hefley	Pursell
Brown	Hefner	Ray
Bunning	Herger	Regula
Burton	Hobson	Rhodes
Callahan	Holloway	Ritter
Camp	Hopkins	Roberts
Campbell (CO)	Houghton	Roe
Carr	Hubbard	Rogers
Chapman	Huckaby	Rohrabacher
Clement	Hunter	Ros-Lehtinen
Clinger	Hutto	Rostenkowski
Coble	Hyde	Roth
Coleman (MO)	Inhofe	Roukema
Collins (MI)	Ireland	Rowland
Combest	Jacobs	Santorum
Conyers	James	Sarpaluis
Cooper	Johnson (TX)	Schaefer
Coughlin	Jones (NC)	Schulze
Cox (CA)	Kasich	Sharp
Crane	Kolbe	Shaw
Cunningham	Kopetski	Shuster
Davis	Kyl	Skelton
DeLay	Lancaster	Smith (IA)
Derrick	Laughlin	Smith (TX)
Dickinson	Lent	Spence
Dicks	Lewis (CA)	Stearns
Dingell	Lewis (FL)	Stenholm
Doolittle	Lightfoot	Stump
Dornan (CA)	Lipinski	Sundquist
Dreier	Livingston	Swett
Duncan	Lloyd	Swift
Eckart	Lowery (CA)	Tauzin
Edwards (OK)	Manton	Taylor (MS)
Edwards (TX)	Markey	Taylor (NC)
Emerson	Marlenee	Thomas (CA)
English	Martin	Thomas (GA)
Espy	McCandless	Thomas (WY)
Ewing	McCloskey	Thornton
Fields	McCollum	Towns
Ford (MI)	McCrery	Traficant
Ford (TN)	McEwen	Upton
Gallegly	McGrath	Valentine
Gallo	McMillan (NC)	Vander Jagt
Gekas	McMillen (MD)	Visclosky
Geren	McNulty	Volkmer