

Anti-Environmental Riders on FY 2015 Appropriations and Other Bills

AS OF 9/16/2014

*) indicates a provision that has been deleted or amended and is no longer objectionable. Please consult the STATUS line for further details.

<u>FY2015 Anti-Environmental Rider Ticker</u>			
	Enacted	Deleted*	Proposed
House National Defense Authorization Act	-	-	2
Senate National Defense Authorization Act	-	-	1
House Commerce, Justice, Science Appropriations	-	-	2
House Department of Defense Appropriations	-	-	1
House Energy and Water Appropriations	-	1	7
House Interior and Environment Appropriations	-	-	32
Total	-	1	45

(X) = Bill has been signed into law
 (V) = Bill has been vetoed
 * = includes provisions amended to no longer be objectionable

National Defense Authorization Act (H.R. 4435)

Title III – Operation and Maintenance – Subtitle B – Energy and Environment

1) Section 312: Exempting Lead Bullets from Regulation under the Toxic Substances Control Act – This provision would prohibit the Environmental Protection Agency from regulating the chemical composition within nearly all forms of ammunition, which is mostly made of lead under the Toxic Substances Control Act. In 1991, the federal government banned the use of lead shot for all waterfowl hunting because of the extensive scientific evidence that lead shot was poisoning millions of ducks, geese, and swans each year. Besides waterfowl hunting ammunition, there are currently no other regulations or limitations on the use of lead or other toxic minerals in ammunition. Today, spent ammunition represents one of the largest sources for lead entering the environment, and continues to poison millions of birds and thousands of mammals each year. A 2012 study in the Proceedings of the National Academy of Sciences concluded that critically endangered California Condors continue to be poisoned by lead from ammunition in “epidemic proportions.” Despite the fact that the EPA has not taken any steps to regulate the chemical composition of ammunition, this rider would prohibit the EPA from ever taking the simplest steps at any point in the future to control the chemical composition of any type of ammunition, even if there was scientific evidence that simple changes to the chemical composition of these bullets could mitigate their environmental impacts.

STATUS: This provision was included in the Chairman's mark.

2) Section 320A: Prohibition on the Use of Funds to Implement Certain Climate Change Assessments and Reports – This provision would prohibit the Department of Defense from using funds to implement the U.S. Global Climate Research Program National Climate Assessment, the Intergovernmental Panel on Climate Change's Fifth Assessment Report, the UN Agenda 21 sustainable development plan, or the May 2013 Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866. This extreme anti-science amendment is an attempt to prevent the DOD from considering the economic costs of climate change and scientific consensus on the dangers posed by climate change.

STATUS: This provision was offered as an amendment by Rep. David McKinley (R-WV) on the House floor. On May 21, 2014, the amendment was agreed to by recorded vote 231-192 (Roll Call No. 231).

National Defense Authorization Act (S. 2410)

Title III – Operation and Maintenance – Subtitle F – Other Matters

1) Section 353: Exemptions Harming Imperiled Sea Otters – This provision would create exemptions to the Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq., and the Marine Mammal Protection Act (MMPA), 16 U.S.C. § 1361 et seq., for military activities that affect sea otters in Southern California which are listed as threatened under the Endangered Species Act. This and similar provisions have been included in recent years in House or Senate defense authorization legislation but never enacted into law. The provision is in response to the U.S. Fish and Wildlife Service's (FWS) termination of the failed southern sea otter translocation and zonal management program that was authorized by Public Law 99-625 in 1986. The translocation program, which was found after a 10-year evaluation by FWS to have failed, contained its own much narrower exemptions that were removed when the program was terminated in December 2012. Under the final rule ending the program, threatened southern sea otters will be receiving the protection provided by both the ESA and MMPA throughout their range. The ESA and MMPA already contain provisions to accommodate military readiness activities, making the exemptions in Section 353 unnecessary for their stated purposes.

STATUS: This provision was included in the Chairman's mark.

Commerce, Justice, Science, and Related Agencies Appropriations Act (H.R. 4660)

Title V – General Provisions

1) Section 541: Undermining Riparian Buffers for Salmon Protection – This provision would prevent the use of Pacific Coastal Salmon Recovery funds to implement grant guidelines or requirements for minimum riparian (stream-side) buffers. Riparian buffers comprised of protective, native vegetation along salmon waters help protect both water quality and salmon recovery efforts. Recognizing this, the Environmental Protection Agency, National Marine Fisheries Service, and the Washington State Department of Ecology are working together to develop clear guidance for future projects funded by salmon recovery grants, to ensure that these projects comply with minimum stream-side protections (buffers). These science-based, minimum buffer standards will help ensure

that public funding goes toward the most effective recovery projects. Undermining these standards would be a loss for both salmon recovery and the efficient use of taxpayer money.

STATUS: This provision was offered as an amendment by Rep. Doc Hastings (R-WA) on the House floor. The amendment was adopted by a voice vote on May 29, 2014.

2) Section 544: Blocking the National Ocean Policy – This provision would block funds to implement the National Ocean Policy. The National Ocean Policy (NOP) is about balance and ensuring long-term sustainability for our ocean economy, ocean jobs, and ocean environment. Interfering with implementation of the policy by attacking the involvement of the National Oceanic and Atmospheric Administration (NOAA) and National Science Foundation (NSF) will risk ongoing conflict and uncertainty over our nation’s oceans. For example, the National Ocean Policy encourages coordinated ocean planning, which pushes ocean and coastal decisions out to the regional and state level. In addition, because the NOP is about existing laws and regulations, there is a risk that some will argue that this rider cuts off funds to existing ocean-related efforts and programs at NOAA and NSF, including marine debris cleanup, ocean acidification and climate change research, coastal and ocean charting and mapping, and efforts to restore estuaries like the Chesapeake Bay.

STATUS: This provision was offered as an amendment on the House floor by Rep. Bill Flores (R-TX). The amendment was adopted by voice on May 29, 2014.

Department of Defense Appropriations Act, 2015 (H.R. 4870)

Title X – Additional General Provisions

1) Section 10011: Prohibition on the Use of Funds to Address Climate Change Impacts – This provision would prohibit the Department of Defense from using funds to design, implement, administer, or carry out the U.S. Global Climate Research Program National Climate Assessment, the Intergovernmental Panel on Climate Change’s Fifth Assessment Report, the UN Agenda 21 sustainable development plan, or the May 2013 Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866. This extreme anti-science amendment is an attempt to prevent the DOD from considering the economic costs of climate change and scientific consensus on the dangers posed by climate change.

STATUS: This provision was offered as an amendment by Rep. David McKinley (R-WV) on the House floor. On May 19, 2014, the amendment was agreed to by voice vote.

Energy and Water Development and Related Agencies Appropriations Act (H.R. 4923)

Title I – General Provisions – Corps of Engineers – Civil

1) Section 105: Definition of Fill Material – This provision would restrict the U.S. Army Corps of Engineers from using funds to develop, adopt implement, administer, or enforce any change to regulations pertaining to the definitions of the terms “fill material” or “discharge of fill material” under the Clean Water Act. A 2002 rulemaking by EPA and the Corps of Engineers altered the definition of “fill material” under the Clean Water Act and these changes cleared the way for industrial mining operations to obtain permits to dump harmful mining waste in streams and rivers.

This rider would lock in these industry loopholes, leaving many of our nation's waterways vulnerable to harmful pollution.

STATUS: This provision was included in the Chairman's mark. This provision was included in the Chairman's mark and was also included in the final FY 2014 Consolidated Appropriations bills.

2) Section 106: Waters of the United States – This provision would block funding for U.S. Army Corps of Engineers to move forward with the Clean Water Protection Rule – a rule clarifying the jurisdiction of the Clean Water Act. Several Supreme Court cases created confusion and an unwieldy process for determining which waters were under the jurisdiction of the CWA. This provision would bring to a halt the public, transparent process behind this rulemaking before it is even out of the public comment stage.

STATUS: This provision was included in the Chairman's mark.

Title III – Department of Energy – General Provisions

1) Section 315: Ceiling Fans – This provision would stop the Department of Energy from “finalizing, implementing, or enforcing” new ceiling fan energy efficiency standards, thwarting a Congressional requirement to review the outdated efficiency standards that currently apply to ceiling fans. The current 10-year old standards govern only the features that must be present on fans (requiring multiple speed options, for example), but place no limits on the amount of electricity fans can use to circulate a given volume air. Moreover, DOE has not yet even proposed any new standards for ceiling fans. The Department has only begun analyzing the issue, and ceiling fan manufacturers across the country have participated in a public meeting and filed comments with the Department. That public process should be allowed to continue, not be stifled by a funding restriction that will keep the Department from even studying whether new standards for ceiling fans would save energy and save money for the families that use them.

STATUS: This provision was offered as an amendment in full Committee by Rep. Charlie Dent (R-PA). The amendment was adopted by voice vote.

Title V – General Provisions

1) Section 525: Blocking Funds for the National Ocean Policy – This provision would block funds to implement the National Ocean Policy. The National Ocean Policy is about balance and ensuring long-term sustainability for our ocean economy, ocean jobs, and ocean environment. Interfering with implementation of the policy by attacking the involvement of the Department of Energy (DOE) and the U.S. Army Corps of Engineers (USACE) will risk ongoing conflict and uncertainty over our nation's oceans. For example, the National Ocean Policy encourages coordinated ocean planning, which provides for ocean and coastal decisions at the regional and state level. In addition, because the NOP is about existing laws and regulations, there is a risk that some will argue that this rider cuts off funds to existing ocean-related efforts and programs at USACE and DOE, including protecting and restoring wetlands, providing guidance to coastal property owners on responsible management options for shoreline erosion, supporting the development of coastal and offshore renewable energy (wind, ocean thermal, and hydrokinetic energy), and contributing data and decision support tools to the publicly available portal at ocean.data.gov.

STATUS: This provision was offered on the House floor by Rep. Bradley Byrne (R-AL). The amendment was adopted by voice vote on July 10, 2014.

2) Section 529: Dredge and Fill Materials- This provision, offered by Rep. LaMalfa (R-CA), would prevent actions based on part of the Clean Water Act for certain kinds of activities that discharge dredged or fill materials into water bodies protected under the Act. Congress specified that a variety of actions' discharges are exempt from Army Corps' review but not if that dumping destroys wetlands or streams, and this rider would eliminate that safeguard for several types of discharges.

STATUS: The amendment was offered on the floor and agreed to by recorded vote 239-182 (roll call no. 394) on 7/10/2014.

3) Section 531: Prohibition on the Use of Funds to Address Climate Change Impacts – This provision would prohibit federal agencies from using funds to design, implement, administer, or carry out the U.S. Global Climate Research Program National Climate Assessment, the Intergovernmental Panel on Climate Change's Fifth Assessment Report, the UN Agenda 21 sustainable development plan, the May 2013 Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866, or the July 2014 Sustainable Development Solutions Network and Institute for Sustainable Development and International Relations' pathways to deep decarbonization report. This extreme anti-science amendment is an attempt to prevent federal agencies from considering the economic costs of climate change and scientific consensus on the dangers posed by climate change.

STATUS: This provision was offered as an amendment by Rep. David McKinley (R-WV) on the House floor. On July 10, 2014, the amendment was agreed to by recorded vote 229-188 (Roll Call No. 397).

***) Gutting Dedicated Funds for California Fish and Wildlife Habitat –** This provision would strip California's fish and wildlife habitat of two critical funding sources: the Central Valley Project (CVP) Restoration Fund and the California Bay-Delta Restoration Fund which were established to mitigate and offset a portion of the cumulative adverse impacts to fish, wildlife and other natural resources resulting from many years of intensive water development in California. Instead of funding their intended purposes, under this new provision at least 90% of these funds would be directed to a group of CVP water contractors to subsidize their operations and water development projects. Moreover, the provision comes at a time when an unprecedented drought is exacerbating the effects of water development on the state's fragile fish and wildlife resources, including the migratory birds of the critical Pacific Flyway. Should this provision be enacted, estimate are that at least nineteen Central Valley national wildlife refuges, state wildlife areas, and private easement lands would be at risk of devastating wetland habitat loss, jeopardizing the health and survival of hundreds of thousands of migratory birds and waterfowl.

STATUS: This provision was included in the Chairman's mark. It was subsequently removed as part of the manager's amendment offered by Chairman Mike Simpson (R-ID) in the full Committee markup.

Department of the Interior, Environment, and Related Agencies Appropriations Act (H.R. 5171)

Title I – Department of the Interior – U.S. Fish and Wildlife Service

1) Resource Management: Funding Transfers from Endangered Species Act Subactivity – This provision in the resource management account for the U.S. Fish and Wildlife Service would allow the Service to transfer funds from the subactivity that implements to the Endangered Species Act to the newly established Fish and Aquatic Conservation account. A similar transfer provision from the Fish and Aquatic Conservation account does not exist, meaning that the agency would be able to divert funding away from Endangered Species Act implementation. This one-way valve potentially undermines the entire recovery and consultation program of the Service under the ESA by turning the ESA into a reserve account for other programs in the Service budget. This one-way authority to transfer funds from the Endangered Species subactivity is restated in the language establishing the Fish and Aquatic Conservation account.

STATUS: This provision was included in the Chairman's mark.

2) Resource Management: Cooperative Landscape Conservation – This provision would specifically prohibit the use of any funding for the ground-breaking Landscape Conservation Cooperatives, a signature FWS initiative to effectively and efficiently address large-scale complex threats to natural resources such as climate change, drought, and invasive species across jurisdictional boundaries at the landscape level. This prohibition would terminate the 22 Cooperatives that currently range across the U.S., that include partnerships with all 50 states and with Canada, Mexico, and countries in the Pacific.

STATUS: This provision was included in the Chairman's mark.

3) National Wildlife Refuge System: Preventing Establishment of New Wildlife Refuges – This provision would prohibit the FWS from using any funds to administratively establish or expand the boundaries of any National Wildlife Refuge even though the agency must go through a rigorous public process to do so. This would effectively stop the growth of the Refuge System. Across the country, wildlife needs more protected habitat and sportsmen and other wildlife enthusiasts are looking for more places to recreate. In these times, Congress should be facilitating the growth of the National Wildlife Refuge System, not undermining it. In addition, this rider goes directly against the intent of Congress in the Refuge System Improvement Act and would completely nullify the 80 year old authority of the bi-partisan Migratory Bird Commission to review and authorize the acquisition of new refuge lands.

STATUS: This provision was included in the Chairman's mark.

Title I – General Provisions

1) Section 111: Reducing the Public's Right to Participate in the Management of Public Lands – This provision would require that a prospective plaintiff exhaust all administrative remedies before filing a citizen suit challenging a Bureau of Land Management decision concerning grazing on public lands. One of the foundations for the management of federal lands is the citizen's right to participate in how public lands are governed. In this system, one of the more meaningful rights is the public's prerogative to petition the federal courts when a citizen believes that a federal

decision has not adhered to the rule of law. But Section 111 would severely curtail these rights by delaying opportunities for the public to seek assistance in the federal court system in regard to how Department of the Interior lands are managed.

STATUS: This provision was included in the Chairman's mark. The same provision was included in the final FY 2012 and FY 2014 Consolidated Appropriations bills as a temporary requirement; however this provision would make the requirement permanent.

2) Section 112: Leaving Millions of Acres of Wilderness Quality Lands Open to Drilling, Mining, and Off-Road Vehicles – This provision would inappropriately and unnecessarily restricts the Secretary of the Interior's ability to implement Secretarial Order #3310, thereby hindering the Bureau of Land Management's ability to protect wilderness quality but unprotected lands from damaging activities. The Secretarial Order simply directs and instructs the BLM to comply with its existing statutory obligations to protect lands managed by the BLM that harbor wilderness and other "natural" values. The Secretarial Order corrects an aberrant policy adopted by former Secretary of the Interior Gale Norton that severely restricted the BLM's ability to properly identify and manage lands containing wilderness characteristics, a policy that overturned two decades of bipartisan agreement regarding the BLM's statutory obligation to assure that environmentally sensitive areas are unimpaired for future generations. Although Congressional critics of this Secretarial Order maintain that it usurped Congressional authority, in fact it in no way impaired the central role that Congress plays in designating Wilderness Areas under the Wilderness Act. Wilderness designation remains exclusively the prerogative of Congress. S.O. #3310 acknowledges this Congressional responsibility, but clarifies the BLM's to conduct periodic assessments of our public lands to determine suitability for protection as wilderness, and to manage such areas to protect such characteristics.

STATUS: This provision was included in the Chairman's mark and was also included in the final FY 2012 and FY 2014 Consolidated Appropriations bills.

3) Section 115: Undermining Protections for Elephants at Risk from Poaching – This provision would block the US Fish and Wildlife Service from issuing any new or revised regulation or order that prohibits or restricts within the United States, the possession, sale, delivery, receipt, shipment, or transportation of ivory that has been lawfully imported into the United States; changes any means of determining when ivory has been lawfully imported; or prohibits or restricts the importation of ivory that was lawfully importable into the United States as of February 1, 2014. From 2010 through 2012, more than 100,000 elephants were slaughtered for their ivory tusks. Fueled by demand for ivory, poaching has slashed the number of African elephants from 1.3 million in 1979 to fewer than 500,000 today. While the largest ivory markets responsible for driving the elephant poaching crisis are in China, Thailand and other Asian countries, the United States also has a significant ivory market, and several tons of illegal ivory worth several million dollars have recently been seized from American retail outlets. Actions to tighten U.S. ivory laws to prevent such laundering of illegal ivory will also be critical to securing similar actions by China and other countries. The prohibitions under Section 115 would tie the hands of USFWS in attempting to address this problem, undercutting efforts to ensure that our country is not contributing to the current elephant poaching crisis and potentially undermining the broader U.S. government efforts called for in the National Strategy for Combatting Wildlife Trafficking. Because the revised USFWS regulations are still under development, this provision would also unnecessarily preempt the public input process that normally informs regulatory decisions, denying citizens their right to help shape policy.

STATUS: This provision was included in the Chairman's mark.

4) Section 116: Restricting Conservation Options for Valley Elderberry Longhorn Beetle – In 2012, the U.S. Fish and Wildlife Service proposed delisting the Valley Elderberry Longhorn Beetle, thereby ending protections for this species under the Endangered Species Act. Following the delisting proposal, an independent peer review determined that the proposal did not represent the best available science because the Service failed to address the increasing risks of non-native, invasive species on the Longhorn Beetle and because the population information for the species was not necessarily reliable. This provision would eliminate funding for the Service to either withdraw the 2012 delisting proposal or finalize the proposal, and also eliminates funding for the Service to further study the Longhorn Beetle. Prohibiting funding to conduct further studies of the beetle undermines the Service's ability to make listing and delisting decisions under the Endangered Species Act solely on the best available scientific information and leaves the future of the species in greater uncertainty.

STATUS: This provision was included in the Chairman's mark.

5) Section 117: Sage-Grouse – This provision would delay protection under the Endangered Species Act (ESA) for all four species and populations of sage-grouse in the West. The U.S. Fish and Wildlife Service (FWS) has already proposed to list two grouse populations – the Gunnison sage-grouse and the bi-state sage-grouse – under the ESA. Populations for each of these grouse have declined to just 5,000 birds, reduced to fragments of their historic range. Postponing final listing decisions for either could threaten their survival and delay their recovery. This provision also would prevent FWS from even considering greater sage-grouse and the Columbia Basin sage-grouse for possible listing under the ESA for at least another year. Both populations have waited more than a decade for a listing decision. Additional delays would make conservation and recovery of these grouse more difficult, more expensive and more disruptive in the future. Section 117 would not only delay long-overdue listing decisions for all four grouse populations, but it could also stall current conservation efforts for these birds with negative consequences for sage-grouse, public lands management, landowners, and other stakeholders. Planning efforts are presently underway to balance land uses with sage-grouse conservation on tens of millions of acres in the West. Resources, timelines, and the incentive for these processes are hinged on the listing timeline for each grouse population. These planning processes could unravel if sage-grouse listing decisions are delayed. Finally, the provision would set another negative precedent of Congress micro-managing individual, science-based administrative listing decisions prescribed by the ESA and, once in the bill, could be extended indefinitely. There is also extensive problematic report language that accompanies this grouse anti-listing provision.

STATUS: This provision was included in the Chairman's mark.

6) Section 118: Recovery Planning for Mountain Yellow-legged Frog and Yosemite Toad – In 2014, the U.S. Fish and Wildlife Service listed the Sierra Nevada yellow-legged frog and northern DPS of the mountain yellow-legged frog as endangered, and listed the Yosemite toad as threatened under the Endangered Species Act. This provision requires the Service to complete a draft recovery plan and submit the plan for public comment by the end of 2015. This provision also requires the Service to include analyses of social and economic impacts of recovery activities. While Service policy already seeks to implement recovery actions in a way to minimize social and economic

impacts so long as recovery still occurs in a timely manner, the policy does not require any types of formal analyses as part of the recovery planning process. This provision potentially undermines recovery planning for these species and others under the ESA and would also likely waste agency funding on unneeded and burdensome analyses. The provision was accompanied by language in the Committee report that makes the same mistake of assuming that Service policy obliges the agency to formally analyze economic impacts as part of recovery plans. If the Service sees value in performing this analysis, it is always free to do so as part of a recovery plan. Mandating this analysis would waste Service resources.

STATUS: This provision was included in the Chairman's mark.

Title III – Related Agencies – Agency for Toxic Substances and Disease Registry

1) Toxic Substances and Environmental Public Health: Delay and Weaken Critical Health Assessments in Communities with Superfund Sites – This provision would limit the health studies that the Agency for Toxic Substances and Disease Registry (ATSDR) is required to do by removing both the deadlines and the guidelines for studying the impacts of chemical exposure on communities that petition for help. This provision would remove the right of citizens to petition the government from timely assistance after toxic chemical exposure. ATSDR health assessments provide invaluable information concerning the threats posed by the contaminated sites to nearby communities. This provision would weaken the requirement for the Agency for Toxic Substances and Disease Registry (ATSDR) to perform health assessments under Section 104(i)(6)(A) of CERCLA by removing the one-year deadline for completing assessments for Superfund sites on the National Priorities List (NPL), the list of the most contaminated sites in the nation. The provision also allows ATSDR to skirt its responsibility to complete a full "health assessment" by permitting the agency to substitute a less rigorous (undefined) health study. Removing this one-year deadline for these critical health assessments and diminishing the comprehensiveness of the assessments constitutes a threat to human health.

STATUS: This provision was included in the Chairman's mark and was also included in the final FY 2014 Consolidated Appropriations bill.

Title IV – General Provisions

1) Section 412: Grazing Permits Renewal and the Circumvention of NEPA – This provision would extend the schedule for the review of grazing permits, by exempting National Environmental Policy Act (NEPA) compliance for permits that are in arrears or expired. Reviewing grazing permits under NEPA is one of the primary means by which the BLM and the Forest Service consider changes needed to improve resource conditions and protect important values on federal lands. Renewing, transferring, or issuing grazing permits without prerequisite NEPA analyses allows poorly managed and abusive grazing practices on over 200 million acres of federal rangelands to continue to degrade many of the unique resources found on federal lands, while also jeopardizing sensitive wildlife species such as sage-grouse that share the range. In 1974, the federal courts held in *NRDC v. Morton* that NEPA analysis for individual grazing allotments should be mandatory. However, 40 years later, over half of all federal grazing allotments have never been analyzed. Section 412 circumvents the efficacy of NEPA, while providing the grazing industry an indefinite blank check that provides livestock permittees the means to operate in a manner that puts sensitive wildlife species and ecological resources in peril.

STATUS: This provision was included in the Chairman's mark. The same provision was included in the final FY 2012 and FY 2014 Consolidated Appropriations bills as a temporary requirement; however this provision would make the requirement permanent.

2) Section 420: Clean Air Act Permits for Greenhouse Gas Emissions Produced by Livestock Waste – Despite clear evidence that factory farms contribute significantly to anthropogenic emissions of methane, nitrous oxide, hydrogen sulfide, and ammonia, the Environmental Protection Agency (EPA) has not required animal feeding operations to meet any testing, performance, or emission standards under the Clean Air Act. This provision would prevent the use of the Clean Air Act permitting tools to control greenhouse gases from the largest sources of livestock waste.

STATUS: This provision was included in the chairman's mark. This provision was originally included in the final FY 2010 Interior, Environment and Related Agencies appropriations bill and also was included in in the final FY 2012 and FY 2014 Consolidated Appropriations bills.

3) Section 421: Putting Blinders on Global Warming Pollution Accounting – This provision would tie EPA's hands on climate change science and impede the agency's ability to gather critical baseline data on greenhouse gas (GHG) emissions by barring EPA from implementing its rule on mandatory reporting of greenhouse gases from manure management systems (CAFOs). Congress wisely recognized that emissions data on all sectors is needed to craft effective climate change policies when it established the statutory requirement in the FY08 Consolidated Appropriations Act for "mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States." Congress should not now to insist that the EPA put up blinders with respect to the very largest industrial animal agriculture facilities – those emitting 25,000 metric tons or more of GHG emissions per year. Domestically, manure management and enteric fermentation are responsible for about one-third of all anthropogenic methane emissions, and methane is more than 20 times as potent a GHG as carbon dioxide. In 2008, methane emissions from manure management were 54 percent higher than in 1990. In addition, the direct and indirect emissions of nitrous oxide – 310 times as potent a GHG as carbon dioxide – from manure management increased 19 percent between 1990 and 2008. As other countries around the globe are collecting similar information from animal agriculture, such an amendment would hamper the United States' ability to be a leader on international efforts to assess and combat climate change. It would also undercut the potential to accurately account for and give credit for GHG emissions reduction measures taken by agricultural entities.

STATUS: This provision was included in the chairman's mark. This provision was originally included in the final FY 2010 Interior, Environment and Related Agencies appropriations bill and also was included in in the final FY 2012 and FY 2014 Consolidated Appropriations bills.

4) Section 426: Exempting Lead Bullets and Lead Fishing Tackle from Regulation under the Toxic Substances Control Act – This provision would prohibit the Environmental Protection Agency from regulating the chemical composition within nearly all forms of ammunition, which is mostly made of lead, and most forms of fishing tackle under the Toxic Substances Control Act. In 1991, the federal government banned the use of lead shot for all waterfowl hunting because of the extensive scientific evidence that lead shot was poisoning millions of ducks, geese, and swans each year. Besides waterfowl hunting ammunition, there are currently no other regulations or limitations on the use of lead or other toxic minerals in ammunition. Today, spent ammunition represents one of the largest sources for lead entering the environment, and continues to poison millions of birds

and thousands of mammals each year. In the United States, an estimated 3,000 tons of lead are shot into the environment by hunting every year, another 80,000 tons are released at shooting ranges, and 4,000 tons are lost in ponds and streams as fishing lures and sinkers — while as many as 20 million birds and other animals die each year from subsequent lead poisoning. Despite the fact that the EPA has not taken any steps to regulate the chemical composition of ammunition or fishing tackle, this rider would prohibit the EPA from ever taking the simplest steps at any point to address this issue to mitigate its environmental impacts.

STATUS: This provision was included in the Chairman's mark

5) Section 428: Doubling Down to Exclude the Public – This provision would amend the Federal Land Policy and Management Act to extend the maximum authorized term of federal grazing permits and leases from 10 to 20 years. The doubling of grazing permits will undercut opportunities to implement necessary management prescriptions as conditions warrant. A 20 year period without any requisite environmental review of individual livestock permits would undermine the fundamental goal of ensuring that the public can exercise its rights in a timely manner to directly contribute to the conservation of the nation's rangeland resources.

STATUS: This provision was included in the Chairman's mark.

6) Section 429: Waters of the United States – This provision would block funding for agencies to move forward with the Clean Water Protection Rule – a rule clarifying the jurisdiction of the Clean Water Act. Several Supreme Court cases created confusion and an unwieldy process for determining which waters were under the jurisdiction of the CWA. This provision would bring to a halt the public, transparent process behind this rulemaking before it is even out of the public comment stage.

STATUS: This provision was included in the Chairman's mark

7) Section 430: Stream Buffer Zone – This provision would keep the Office of Surface Mining Reclamation and Enforcement within the Department of the Interior from continuing work to revise regulations, adopted in the waning days of the Bush administration, which opened up streams to destructive and polluting practices associated with surface coal mining. Federal courts have recently invalidated the rulemakings put forward under the previous administration, and this provision could hinder the agency's ability to respond to the court's ruling.

STATUS: This provision was included in the Chairman's mark.

8) Section 431: Tying the Hands of Federal Land Managers – This provision would impose unnecessary limits on the ability of federal land managers to close lands to hunting, fishing or recreational shooting. Hunters and anglers are first and foremost conservationists and outdoor enthusiasts. They understand that sustaining fish and wildlife and protecting public safety sometimes requires them to set aside their rods and rifles. In tinder-dry forests, for example, federal land managers may need the flexibility to close some areas to target shooting in order to avoid sparking wildfires. Such closures should be driven by conditions on the ground and not arbitrary time limits selected by Congress.

STATUS: This provision was included in the Chairman's mark.

9) Section 432: Blocking funds for the National Ocean Policy – This provision would block funds to implement the National Ocean Policy. It would also require duplicative and unnecessary reporting. The National Ocean Policy is about balance and ensuring long-term sustainability for our ocean economy, ocean jobs, and ocean environment. Interfering with implementation of the policy by attacking the involvement of the Department of Interior (DOI) and Environmental Protection Agency (EPA) will risk ongoing conflict and uncertainty over our nation's oceans. For example, the National Ocean Policy encourages coordinated planning, which provides for ocean and coastal decisions at the regional and state level. In addition, because the NOP is about existing laws and regulations, there is a risk that some will argue that this rider cuts off funds to existing ocean-related efforts and programs at DOI and EPA, including coastal elevation mapping; efforts to reduce wetland loss; detection of harmful algal blooms and programs to assist coastal communities suffering from hypoxic zones; improvements to oil spill prevention, containment, and response; and efforts to restore estuaries like the Chesapeake Bay and the Long Island Sound.

STATUS: This provision was included in the Chairman's mark.

10) Section 433: Undermining Requirements for Lead-Safe Practices – This provision would prohibit funding for the EPA to implement the "lead contractor" rule until the agency approves a commercially available lead paint test kit. The amendment was adopted on a voice vote. EPA issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, beginning contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination. Thousands of contractors have been trained under the new rules; this amendment will stop enforcement of this rule.

STATUS: This provision was included in the Chairman's mark.

11) Section 434: Sticking Taxpayers with Toxic Cleanup Costs – This provision would prohibit the EPA from using funds to establish new financial responsibility requirements pursuant to §108(b) of CERCLA. Blocks EPA rulemaking-- which is required by statute-- to ensure polluters set aside sufficient funds to clean up toxic spills. Financial assurance constitutes the funds in the form of bonds or insurance that industries handling hazardous substances must secure to cover any spills or releases from their industrial activities. The establishment of financial assurance requirements pursuant to CERCLA 108(b) is 30 years overdue. The absence of financial assurance requirements have allowed companies to walk away from complex and expensive sites, leaving taxpayers with billions of dollars in cleanup costs when industries default on cleanup obligations, and the lack of funding has slowed numerous cleanups. The requirement to maintain insurance for spills of hazardous substances would lead to safer chemical management.

STATUS: This provision was included in the Chairman's mark.

12) Section 435: Blocks the Environmental Protection Agency (EPA) from Finalizing Carbon Pollution Standards for Power Plants – This provision would effectively block EPA from finalizing the first ever carbon pollution standards for new, modified, and existing fossil fuel power plants. Electric power plants are the largest source of the dangerous carbon pollution that is driving climate change and extreme weather. Power plants have limits on arsenic, lead, and mercury, yet there are currently no national limits on how much carbon pollution these plants can dump into the atmosphere. This pollution fuels climate change, which will lead to more asthma attacks and increase

the frequency and intensity of extreme weather events like droughts that destroy crops, floods that wipe out communities, and massively damaging storms. The EPA, honoring its obligations under the Clean Air Act, has proposed standards that will avoid up to 150,000 child asthma attacks and 6,600 premature deaths, totaling \$93 billion in benefits, and reduce electricity bills by roughly 8 percent. These standards represent the most important step the United States has taken to slow climate change. This provision would block EPA's work to protect this and future generations from carbon pollution.

STATUS: This provision was included in the Chairman's mark.

13) Section 438: Prohibits Natural Resource Agencies from Protecting Rivers on Public Lands – This provision would prohibit agencies from protecting rivers and public lands. This bill would in effect amend any federal law, such as the Endangered Species Act, that permits agencies to place conditions on permits or licenses that would keep water in rivers to support fish, wildlife, or instream recreation. It would also preempt state laws that allow Federal agencies to impose similar conditions. For instance, the language could prohibit the Forest Service from requiring water diverters to leave some water in a stream on Forest Service land, or stop the Fish and Wildlife Service from requiring flows that attract fish to fish ladders so that they can safely pass over dams. This provision would undermine nearly all efforts to improve the health of the nation's rivers and public lands, including National Parks, National Forests, and National Wildlife Refuges. If enacted, private users of water could dry up rivers on public lands with impunity. Section 438 is an assault on our nation's iconic bodies of water, from the Chesapeake Bay, to the Colorado River; from the Everglades to the San Francisco Bay Delta.

STATUS: This provision was included in the Chairman's mark.

14) Section 439: Definition of Fill Material – This provision would prohibit EPA from changing regulations defining "fill Material" under the Clean Water Act. A 2002 rulemaking by EPA and the Corps of Engineers altered the definition of "fill material" under the Clean Water Act and these changes cleared the way for industrial mining operations to obtain permits to dump harmful mining waste in streams and rivers. This rider would lock in these industry loopholes, leaving many of our nation's waterways vulnerable to harmful pollution.

STATUS: This provision was included in the Chairman's mark.

15) Section 441: Protecting Loopholes for Hazardous Waste Recyclers – This provision would allow hazardous waste recycling operations without Resource Conservation and Recovery Act oversight cut corners and create Superfund sites. EPA has identified more than 200 cases of damage to human health or the environment from hazardous waste recycling, and 96% were at facilities without RCRA permits. After completing the first-ever environmental justice analysis, EPA found that hazardous waste recycling disproportionately impacts communities of color and low-income communities. In 2008, the Bush Administration exempted hazardous waste "recycling" from RCRA requirements. The EPA's proposed Definition of Solid Waste (DSW) rule would reinstate critical safeguards for communities living near hazardous waste recycling operations. Specifically, this funding prohibition would block the proposed DSW rule applicable to scrap metal and shredded circuit board recyclers, exempting them from requirements to (1) formally notify EPA of activities (thereby giving the state, affected communities and EPA information regarding location, quantities and nature of materials being handled); (2) demonstrate recycling is "legitimate" (unlike sham recycling which has led to Superfund sites); (3) comply with containment requirements to

prevent the release of hazardous materials; and (4) complying with requirements re recordkeeping so that waste is not speculatively accumulated for extended periods of time (a big issue with scrap yards).

STATUS: This provision was included in the Chairman's mark.

IN HOUSE INTERIOR APPROPRIATIONS COMMITTEE REPORT (House Report #113-551)

1) Chilling Citizen Enforcement with Punitive Reporting Requirements – Language in the report would direct the Department of the Interior, the Forest Service, and the Environmental Protection Agency to produce “detailed” reports on the cost of successful enforcement actions filed by individuals and organizations in federal court—reports identifying anyone who recovers litigation expenses from the government, and any judges who approve such reimbursements. For decades, Congress has recognized the critical role that citizen suits play in ensuring that federal agencies do as federal law requires. Under a number of statutes, citizens are allowed both to challenge illegal agency actions in federal court and to recover the costs of doing so when they are successful. These cases are not easy to win, given the deference afforded to agency decisions; they are essential, however, in ensuring that federal agencies fulfill the duties and deadlines established for them by Congress. Despite the importance of citizen suits, language in the House report subjects them to a punitive set of reporting requirements that target every citizen and judge involved. Reasonable reporting provisions—like those Congress removed from the Equal Access to Justice Act in 1995—provide an important means of agency oversight. The more onerous and intrusive requirements of the House report threaten to chill citizen enforcement of federal law. – **(REPORT LANGUAGE)**

STATUS: This language was included in the Committee report accompanying the legislation.

2) Elevating Inferior State Wildlife Data – Language in the report would direct Federal agencies to use State fish and wildlife data as a primary source to inform Federal land use, land planning, and related natural resource decisions. Forcing the agencies to rely on State data as the primary source of information for Endangered Species Act decision-making would result in the use of deficient and less sound scientific information, undermining the “best available” standards required by the ESA. Data provided by States is not always the best available – other sources may be better such as university studies or even industry studies. When State data is the best, the agencies already use it. – **(REPORT LANGUAGE)**

STATUS: This language was included in the Committee report accompanying the legislation.

Title I – Department of the Interior – U.S. Fish and Wildlife Service

1) Avoiding Protections for Candidate Species – The Committee report would direct the FWS to reevaluate its work plans pursuant to court-approved settlement agreements with conservation organizations that obligate the Service to make listing determinations for each of the candidate species under the ESA by 2017 and to request deadline extensions when necessary. This language attempts to put a thumb on the scales to delay crucial listing decisions.

STATUS: This language was included in the Committee report accompanying the legislation. – **(REPORT LANGUAGE)**

2) Undermining Protections for Northern Long-eared Bat – The U.S. Fish and Wildlife Service proposed protecting the Northern Long-eared Bat as an “endangered” species in October 2013 based on declines of over 90% due to white-nose syndrome. Following the receipt of several letters from Republican members of Congress, the Service extended the final listing decision by six months. The Committee report encourages the Service to list the species as “threatened” with a special rule to reduce restrictions on economic activity. Under the Endangered Species Act, all listing determinations are required to be based solely on the best available science. The Service may not list an “endangered” species as “threatened” to accommodate economic concerns. This language in the Committee Report undermines the best available science standard of the ESA.

STATUS: This language was added to the report in the manager’s amendment during markup in the full Committee.
– **(REPORT LANGUAGE)**

Title III – Related Agencies – U.S. Forest Service

1) Undoing Forest Service Travel Management Plans – This report language would require the Forest Service to amend all travel management plans for those national forests where some subset of the public is dissatisfied with the plan. This language could give any dissatisfied interests, no matter how few, veto power over a public process, thereby elevating the input of this subset of people above all other stakeholders. During the nine years since the Travel Management Rule was promulgated in 2005, the Forest Service has been undergoing thorough environmental review, including extensive public engagement with citizens and local elected officials, to implement the travel management rule in order to strike an appropriate balance in managing all types of recreational activities. For many national forests this language could, in one quick action, undo nearly a decade of planning and decision-making designed to create a reasonable, accessible, and more sustainable system of motorized recreation on our national forests.

STATUS: This language was included in the Committee report accompanying the legislation. – **(REPORT LANGUAGE)**

2) Interfering with protecting water quality and road management on national forests in Washington State – This report language would interfere with the Forest Service’s responsibility to protect water quality and effectively manage its road system in Washington State. The language attempts to set land management priorities for the Forest Service by prioritizing road storage over decommissioning of unneeded roads that are causing environmental impacts. There are over 21,700 miles of road on national forest in Washington – if lined up end to end, that’s nearly enough roads to take a person around earth’s equator. Many of those roads are old unused logging routes leftover from a bygone timber era and are causing tremendous water quality problems – in some cases, resulting in violation of Clean Water Act standards. Certainly some of these roads should be removed and the Forest Service should retain the discretion to take this action in order to restore and protect water quality.

STATUS: This language was included in the Committee report accompanying the legislation. – **(REPORT LANGUAGE)**

3) Interfering with transitioning America’s crown jewel rainforest, the Tongass National Forest, away from industrial-scale old growth logging – This report language requires the Forest Service to prepare and offer within two years several large-scale old growth timber sales in Region 10, which includes the Tongass National Forest. This directive would undermine the Administration’s plan to transition the Tongass away from damaging industrial-scale old growth logging toward a diverse, sustainable economic future for southeast Alaska based on restoration, fishing, recreation, and tourism.

STATUS: This language was included in the Committee report accompanying the legislation. – **(REPORT LANGUAGE**

*American Bird Conservancy * American Forests * American Rivers
Alaska Wilderness League * Audubon * Center for Biological Diversity
Clean Water Action * Conservation Northwest * Defenders of Wildlife * Earthjustice
Earthworks * Endangered Species Coalition * Environmental Defense Fund * EPIC
Friends of the Earth * Friends of the Sea Otter * International Fund for Animal Welfare
Klamath Forest Alliance * League of Conservation Voters * Los Padres Forest Watch
Natural Resources Defense Council * Ocean Conservancy * Sierra Club
Southern Environmental Law Center * Southern Utah Wilderness Alliance
The Wilderness Society * Western Nebraska Resources Council
Wildlife Conservation Society * World Wildlife Fund*

Individual organizations listed above may not necessarily work on or have expertise on every provision in this list.