

Mr. Speaker, Robin Gonzales has served her community with admirable professionalism and dedication for over three decades. It is fitting and proper that we honor her here today and extend our best wishes for an enjoyable retirement.

H.R. 5538, INTERIOR, ENVIRONMENT
AND RELATED AGENCIES APPROPRIATIONS BILL

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 21, 2016

Mr. BLUMENAUER. Mr. Speaker, I emphatically voted “no” on House passage of the Interior, Environment and Related Agencies appropriations bill (H.R. 5538) last week, which was a parade of misguided provisions and poison pill policy riders that will roll back critical environmental protections and seriously harm our climate, our natural surroundings, and wildlife. We can do better than this shameful attempt at governing.

We should be supporting programs to clean our air and water, protect our precious natural resources, and help us transition to a clean energy future. Instead, this legislation moves us in the opposite direction.

The bill cuts the Environmental Protection Agency’s (EPA) operating budget and blocks spending on key programs and regulations at a time when we need greater—not fewer—resources to protect our health and guarantee clean air and clean water. This reality is particularly painful for communities like Flint, Michigan and my hometown of Portland, Oregon, where the EPA is assisting with recent air toxics and water-related crises, trying to stretch meager funding even as the stakes get higher. The legislation also continues the Republican charade of climate change denial, undermining the administration’s Clean Power Plan and the President’s bold commitments made to the international community at the Paris Climate Conference last year.

This bill underfunds key Department of Interior agencies tasked with protecting and conserving lands and wildlife, such as the U.S. Fish and Wildlife Service, National Park Service, and Bureau of Indian Affairs. It slashes the Land and Water Conservation Fund, which has been fundamental for protecting public land and recreation in Oregon and across the country. One of the bill’s more offensive provisions blocks Presidential declarations under the Antiquities Act, eliminating the potential of a national monument in southeastern Oregon’s magnificent Owyhee Canyonlands and other threatened areas of natural beauty throughout the United States. In short, the bill takes multiple steps backwards when we should be ramping up efforts to protect, conserve, and take better care of our natural world.

My Republican colleagues took this opportunity to score political points by tacking on damaging policy riders that have no place in the appropriations process. These riders block funding for implementation of common sense regulations like the Well Control Rule, the Obama Administration’s National Ocean Policy, the Bureau of Land Management’s hydraulic fracturing rule, to name a few. There are also riders that would stall progress we’ve

made in preventing drilling in the Arctic Ocean, prevent the Fish and Wildlife Service and the National Park Service from setting minimum standards for hunting on federal lands in Alaska, block federal protection of species like the iconic gray wolf and Preble’s Meadow jumping Mouse, roll back the Clean Air Act and stop additional action to prevent climate change, the greatest environmental challenge of our time. Even closer to home, one proposed amendment would have blocked the historic agreement between Oregon, California, PacifiCorp, and conservation organizations to remove four dams on the Klamath River, but luckily it was not successful.

This was a shameful showing by the House. While I joined my colleagues in efforts to block many of the most harmful provisions and policy riders, ultimately the Republican majority let big polluters and special interests rule the day, playing politics with what should have been an opportunity to sensibly fund important parts of the government. Our legacy should be one of conservation, careful investment in preservation of precious natural resources, and protection of human health and our fragile climate. This bill could not be more damaging to that legacy, and its passage demonstrates we must fight harder for the future our planet deserves.

TRIBUTE TO FLORIDA CHAPTER
OF CHARACTER.ORG

HON. DAVID W. JOLLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 21, 2016

Mr. JOLLY. Mr. Speaker, I wish to recognize Florida Character.org for promoting morality in schools, families, communities and workplaces throughout our community.

Florida Character.org helps young people everywhere strive to be ethical and engaged citizens irrespective of their backgrounds. They are a nonprofit organization that works with districts, schools and other organizations to help foster a culture where young people thrive both academically and morally. They provide the necessary resources for educators, community activists, workplaces, and parents to create a productive environment.

Due to the extraordinary success of their model, Florida Character.org provides a tutorials to organizations across the world who wish to institute similar values in their communities. This template is named “The 11 Principles of Effective Character Education” which appropriately sums up their philosophy on character education. Character.org also helps people exchange ideas and resources through a network of organizations, schools, and individuals while discussing potentially beneficial approaches to further their work.

I would like to thank Character.org for being such an upstanding organization that works to encourage integral values such as honesty and respect, in parallel to an exemplary education. I thank Character.org for their passion and exceptional work, and ask that this body join me in recognizing them as well.

DEEPWATER HORIZON
SETTLEMENT

HON. JOHN FLEMING

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 21, 2016

Mr. FLEMING. Mr. Speaker, I rise to correct the record regarding statements made by Congresswoman MCCOLLUM (D-MN-4) during debate on the Smith (MO) Amendment Number 85 to H.R. 5538, the Department of Interior, Environment, and Related Agencies Appropriations Act, 2017.

Congresswoman MCCOLLUM claimed during amendment debate that the Smith Amendment would block \$500 million from the Deepwater Horizon settlement from being paid to Gulf States by the Office of Natural Resource Disaster Assessment at the Department of Interior.

Despite Congresswoman MCCOLLUM’s claims, the Smith Amendment does not have any legal effect on the Deepwater Horizon settlement.

The Smith Amendment prevents the Department of Interior from using funds to carry out this sentence of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA): “Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources.”

However, the Deepwater Horizon spill fell entirely under the Oil Pollution Act, and was not prosecuted under CERCLA. No fines were assessed under CERCLA.

In addition, CERCLA contains an explicit exemption for petroleum products in Section 101(14). In fact, an environmental group that filed a lawsuit against BP under CERCLA and EPCRA lost their suit because of the petroleum exemptions in those laws.

Therefore, a legal analysis by the American Law Division of the Congressional Research Service confirmed that the Smith (MO) Amendment Number 85 would have had no legal effect on the NRDA process, the RESTORE Act funds, or any other payment from the Deepwater Horizon Settlement. The RESTORE Act already appropriates money from the settlement to the states.

To quote from the CRS memorandum: “This memorandum finds that the Amendment, if approved and then made part of enacted legislation, would not have created a legal barrier to DOI’s distribution of funds from the Deepwater Horizon settlement with the federal government and the Gulf States to address natural resources damages related to the incident.”

Instead, the Smith Amendment would have prevented executive branch agencies who collect fines under CERCLA from buying more federal land that is unrelated to the CERCLA violation without any Congressional oversight. The Amendment is designed to stop executive branch abuses and overreach, which has been a common theme for the Obama Administration.

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, July 19, 2016.
MEMORANDUM

From: Adam Vann, Legislative Attorney, 7-6978

Subject: Applicability of Failed Amend. 85 of H.R. 5538 to the Authority of the Department of the Interior to Distribute Deepwater Horizon Settlement Funds to Gulf States

You have asked us to analyze the impact that a proposed Amendment to H.R. 5538, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017, would have on the legal authority of the Department of the Interior (DOI) to allocate funds to mitigate natural resources damages caused by the 2010 Deepwater Horizon incident. The proposed Amendment, listed as Amendment 85 in a Rules Committee Report on H.R. 5538, was not adopted. The Amendment would have provided that funds made available by H.R. 5538 could not be used to carry out a specific provision in Section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This memorandum finds that the Amendment, if approved and then made part of enacted legislation, would not have created a legal barrier to DOI's distribution of funds from the Deepwater Horizon settlement with the federal government and the Gulf States to address natural resources damages related to the incident. However, CRS is not opining on whether the Amendment would have created practical administrative difficulties that might have impeded allocation of those funds.

BACKGROUND

The proposed Amendment 85 to H.R. 5538 read as follows:

None of the funds made available by this Act may be used to carry out the third sen-

tence of section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)) (relating to use of recovered sums by the United States Government without further appropriation).

Section 107(f)(1) of CERCLA addresses liability for injury to, destruction of, or loss of natural resources caused by a release or threatened release of hazardous substances, and designates the United States government as a trustee empowered to receive compensation for such damages. The third sentence of Section 107(f)(1) provides that “[s]ums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources.” This grant of federal authority to act as trustee forms the legal foundation for DOI's Natural Resource Damage Assessment and Restoration program, which allows the agency to distribute funds to assess natural resources damages, and restore, replace or acquire the equivalent of the damaged resources.

A similar authority to collect and disburse funds to address natural resource damages is found at Section 1006 of the Oil Pollution Act (OPA). That section authorizes the United States government, as designated trustee, to “develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent” of natural resources damages resulting from an oil spill. Section 1006(f) authorizes maintenance of a fund “for use only to reimburse or pay costs incurred by the trustee . . . with respect to the damaged natural resources.” After the Deepwater Horizon oil spill in the Gulf of Mexico in 2010, the United States and the affected Gulf States entered into a Consent Decree with BP Exploration and Production,

Inc. (BP) outlining BP's liability to the United States for the incident under federal statute, including liability for natural resources damages under the relevant provisions of OPA. Pursuant to the Consent Decree, DOI was tasked with managing the designated funds for the “restoration, rehabilitation, replacement, or acquisition of the equivalent of injured or lost Natural Resources or natural resource services as provided in one or more restoration plans.”

DISCUSSION

Staff at DOI previously stated that the passage and enactment of Amendment 85 as part of H.R. 5538 would have constrained DOI's ability to distribute funds for natural resources damages related to the Deepwater Horizon incident, as it is authorized to do by the Consent Decree. Upon review of the text of the Amendment as well as the relevant language in CERCLA, OPA and the Consent Decree, CRS cannot find any legal limitation in the Amendment that would have barred DOI from expenditure of funds for “restoration, rehabilitation, replacement, or acquisition of the equivalent of injured or lost Natural Resources” in the Gulf of Mexico related to the Deepwater Horizon incident pursuant to DOI's authority under OPA and the Consent Decree. However, CRS cannot opine as to whether administrative issues (e.g., commingling of CERCLA and OPA funds in one account) may have presented barriers to distribution of such funds if DOI had been barred from distributing CERCLA natural resource damage funds by the Amendment, as representatives of DOI have reportedly claimed. Analysis of accounting and related administrative concerns at DOI is outside the scope of this memorandum.