

to the floor of the Senate. We didn't have it offered as an amendment on the floor and have a vote and debate on this floor. It didn't go through the House. It wasn't debated there. It was airdropped in on a conference committee.

Water is a precious resource, and this pits the salmon industry against the Central Valley farmers and says we are ruling for one over the other by violating the biological opinions necessary for the salmon and the smelt to survive. That is just wrong.

It says something else. It says the power of this body to authorize dams is being wiped out because no authorization is needed anymore by this body. Now, a colleague came to the floor and said, well, not really because the Senate would still have to provide some funds in an appropriations bill, but we all know how appropriation bills work. They are massive. They come out of conference at the last second. There are little things tucked in there. Taking away the process of an authorization debate on the merits of a dam nullifies the role of this body in implementing smart decisions about whether dams make sense or don't make sense under a particular set of conditions. Some make sense, some don't, and that is why we come through and we have an authorizing discussion. This guts that.

This is a terrible precedent for legislation that will come in the future, and it is terrible at this moment for the damage to the water in these upper rivers that actually flow backward and is authorized by this bill. It is a terrible provision for the salmon that 20,000 fishermen and fisherwomen depend on, and it is a terrible precedent for every other ecological discussion. That is why every major newspaper in California has written an editorial saying: Don't do this. Don't do this, says the Mercury News editorial board. They proceed to say it "would gut environmental protections and have devastating long-term effects on the Sacramento-San Joaquin Delta's ecosystem." It says this last-minute, closed-door provision "allows maximum pumping of water from the Delta to the Central Valley and eliminates important congressional oversight over building dams . . . dramatically roll back the Endangered Species Act . . . perhaps paving the way for its repeal . . . or gutting." It says: "We're not sure whether the Republican sweep in November means Americans no longer care about clean air and water, but we're about to find out. In the interim, the Senate and if necessary president need to protect the Delta. . . ."

That is what the Mercury said.

The Los Angeles Times editorial says: "A water deal that's bad for California's environment," and it goes on. It says: "The regrettable conclusion must be that the so-called drought provisions are unacceptable." It notes that "the proposed drought-year legislation would appear to be directly at

odds with current, laudable efforts by the State Water Resources Control Board to ensure the presence of enough water in the lower San Joaquin River—close to the delta pumps—to sustain migrating salmon, which are not merely another fish but integral to California's ecology, culture, and history" and certainly to Oregon's ecology, culture, and history.

We have the San Francisco Chronicle, which is simply entitled: "Stop . . . water-bill rider." It proceeds to conclude, after a couple of extensive analyses, it says:

Drought and warming temperatures . . . are tipping off mass extinction of the species in the San Francisco Bay and its estuary. We have to work to share water among people, farms and the environment of California—not try to benefit one interest with a midnight rider.

Here we are 15 minutes from midnight. Multiple provisions raid the water, changing the status quo that has been carefully worked out with biological opinions. Multiple newspapers say it is just wrong so let's take a moment and say let's cut this provision out of this bill.

Let's put this bill on hold until it is gotten rid of because it is wrong to have an airdropped provision on a challenge of maintaining a viable salmon industry debated on a midnight rider.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I want to thank the Senator from Oregon very much. He gets it. We are united on this. We hope our colleagues hear our plea that if we can get rid of this rider, we will have a magnificent bill that was worked on by so many: my friend JIM INHOFE, myself, Senator MERKLEY in the committee, Senator FISCHER—a beautiful bill. Why? Because we worked together. The bill had hearings, saw the light of day. Then literally, literally at the last second, a special interest rider was added. I know this was not the work of the Senate. I love my colleagues here. They did not want this done. It was done. Once it was done, we have to make a decision.

You know, before I yield to RON WYDEN, what I want to say is, if you ask people on the street "Why do you give Congress such low marks?" people don't like us here. I personally think this is a noble profession. I am so blessed to have a chance to make life better for people. All of us feel that way. But why don't people really appreciate our work? One of the reasons is they put unrelated matters on at the last second, as MARIA CANTWELL said, simply because they can.

This is a bill which is so wonderful for the country. Now they make it so controversial and so difficult for Members to choose. Look at my situation. I have 26 provisions in here for my State. It is magnificent for my people. But yet and still, this rider threatens the entire fishing industry of my State and thousands of jobs all up and down the west coast.

For people like my friends from Michigan—they know how hard I worked. They know how hard MARIA CANTWELL worked to fix the problem in Flint, to replace those pipes. Yet it is in this bill. So it makes it even more cynical that such a thing was added at the end and force people to choose between helping the people of Flint and preserving the tens of thousand of fisherman jobs. This is not right. This is ridiculous and not necessary.

If Mr. MCCARTHY is so powerful, why does he just not introduce the bill as freestanding legislation next year and let it go? But, no, it had to be done on this bill. Why? Because he could do it. I tell you, if he reads the newspaper articles and op-eds that are in every paper in my State, from Republican areas, from Democratic areas, he is not that well thought of for this. It was a big mistake.

At this time, I want to yield to my colleague and friend, who, with Senator MERKLEY, has been an outstanding voice protecting the fishing industry in his State and the beauty of his State, RON WYDEN.

Mr. WYDEN. I thank my colleague. I would be happy to yield to our colleague from Oklahoma.

#### REMOVAL OF INJUNCTIONS OF SECRECY—TREATY DOCUMENT NOS. 114-13, 114-14, AND 114-15

Mr. INHOFE. Madam President, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on December 9, 2016, by the President of the United States: The Treaties with the Republic of Kiribati and the Government of the Federated States of Micronesia on the Delimitation of Maritime Boundaries, Treaty Document No. 114-13; the Arms Trade Treaty, Treaty Document No. 114-14; and United Nations Convention on Transparency in Treaty-Based Investor-State Arbitration, Treaty Document No. 114-15. I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to their ratification, two bilateral maritime boundary treaties: the Treaty between the Government of the United States of America and the Government of the Republic of Kiribati on the Delimitation of Maritime Boundaries, signed at Majuro on September 6, 2013; and the Treaty between the Government of the

United States of America and the Government of the Federated States of Micronesia on the Delimitation of a Maritime Boundary, signed at Koror on August 1, 2014. I also transmit, for the information of the Senate, the report of the Department of State with respect to the treaties.

The purpose of the treaties is to establish our maritime boundaries in the South Pacific Ocean with two neighboring countries. The treaty with Kiribati establishes three maritime boundaries totaling approximately 1,260 nautical miles in length between Kiribati and the United States islands of Palmyra Atoll, Kingman Reef, Jarvis Island, and Baker Island. The treaty with the Federated States of Micronesia establishes a single maritime boundary of approximately 447 nautical miles in length between the Micronesian islands and the United States territory of Guam. The boundaries define the limit within which each country may exercise maritime jurisdiction with respect to its exclusive economic zone and continental shelf.

I believe these treaties to be fully in the interest of the United States. They reflect the tradition of cooperation and close ties with Kiribati and with the Federated States of Micronesia in this region. These boundaries have never been disputed, and the delimitation in the treaties conforms closely to the limits the United States has long asserted for our exclusive economic zone in the relevant areas.

I recommend that the Senate give early and favorable consideration to the treaties, and give its advice and consent to ratification.

BARACK OBAMA.

THE WHITE HOUSE, December 9, 2016.

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, subject to certain declarations and understandings set forth in the enclosed report, I transmit herewith the Arms Trade Treaty, done at New York on April 2, 2013, and signed by the United States on September 25, 2013. I also transmit, for the information of the Senate, the report of the Secretary of State with respect to the Treaty, which contains a detailed article-by-article analysis of the Treaty.

The Treaty is designed to regulate the international trade in conventional arms—including small arms, tanks, combat aircraft, and warships—and to reduce the risk that international arms transfers will be used to commit atrocities, without impeding the legitimate arms trade. It will contribute to international peace and security, will strengthen the legitimate international trade in conventional arms, and is fully consistent with rights of U.S. citizens (including those secured by the Second Amendment to the U.S. Constitution). United States national control systems and practices to regulate the international transfer of conventional arms already meet or exceed

the requirements of the Treaty, and no further legislation is necessary to comply with the Treaty. A key goal of the Treaty is to persuade other States to adopt national control systems for the international transfer of conventional arms that are closer to our own high standards.

By providing a basis for insisting that other countries improve national control systems for the international transfer of conventional arms, the Treaty will help reduce the risk that international transfers of specific conventional arms and items will be abused to carry out the world's worst crimes, including genocide, crimes against humanity, and war crimes. It will be an important foundational tool in ongoing efforts to prevent the illicit proliferation of conventional weapons around the world, which creates instability and supports some of the world's most violent regimes, terrorists, and criminals. The Treaty commits States Parties to establish and maintain a national system for the international transfer of conventional arms and to implement provisions of the Treaty that establish common international standards for conducting the international trade in conventional arms in a responsible manner. The Treaty is an important first step in bringing other countries up towards our own high national standards that already meet or exceed those of the Treaty.

The Treaty will strengthen our security without undermining legitimate international trade in conventional arms. The Treaty reflects the realities of the global nature of the defense supply chain in today's world. It will benefit U.S. companies by requiring States Parties to apply a common set of standards in regulating the defense trade, which establishes a more level playing field for U.S. industry. Industry also will benefit from the international transparency required by the Treaty, allowing U.S. industry to be better informed in advance of the national regulations of countries with which it is engaged in trade. This will provide U.S. industry with a clearer view of the international trading arena, fostering its ability to make more competitive and responsible business decisions based on more refined strategic analyses of the risks, including risks of possible diversion or potential gaps in accountability for international arms transfers, and the associated mitigation measures to reduce such risks in a given market.

The Treaty explicitly reaffirms the sovereign right of each country to decide for itself, pursuant to its own constitutional and legal system, how to deal with conventional arms that are traded exclusively within its borders. It also recognizes that legitimate purposes and interests exist for both individuals and governments to own, transfer, and use conventional arms. The Treaty is fully consistent with the domestic rights of U.S. citizens, including those guaranteed under the U.S. Constitution.

I recommend that the Senate give early and favorable consideration to the Treaty, and that it give its advice and consent to ratification of the Treaty, subject to the understandings and declarations set forth in the accompanying report.

BARACK OBAMA.

THE WHITE HOUSE, December 9, 2016.

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, subject to certain reservations, I transmit herewith the United Nations Convention on Transparency in Treaty-Based Investor-State Arbitration (Convention), done at New York on December 10, 2014. The report of the Secretary of State, which includes an overview of the Convention, is enclosed for the information of the Senate.

The Convention requires the application of the modern transparency measures contained in the United Nations Commission on International Trade Law (UNCITRAL) Transparency Rules to certain investor-state arbitrations occurring under international investment agreements concluded before April 2014, including under the investment chapters of U.S. free trade agreements and U.S. bilateral investment treaties. These transparency measures include publication of various key documents from the arbitration proceeding, opening of hearings to the public, and permitting non-disputing parties and other interested third persons to make submissions to the tribunal. As the UNCITRAL Transparency Rules by their terms automatically apply to arbitrations commenced under international investment agreements concluded on or after April 1, 2014, and that use the UNCITRAL Arbitration Rules (unless the parties to such agreements agree otherwise), there is no need for the Convention to apply to international investment agreements concluded after that date.

Transparency in investor-state arbitration is vital, given that governmental measures of interest to the broader public can be the subject matter of the proceedings. The United States has long been a leader in promoting transparency in investor-state arbitration, and the 11 most recently concluded U.S. international investment agreements that contain investor-state arbitration already provide for modern transparency measures similar to those made applicable by the Convention. However, 41 older U.S. international investment agreements lack all or some of the transparency measures. Should the United States become a party, the Convention would require the transparency measures to apply to arbitrations under U.S. international investment agreements concluded before April 2014, to the extent that other parties to those agreements also join the Convention and to the extent the United States and such other

parties do not take reservations regarding such arbitrations. The Convention would also require the transparency measures to apply in investor-state arbitrations under those agreements when the United States is the respondent and the claimants consent to their application, even if the claimants are not from a party to the Convention.

The United States was a central participant in the negotiation of the Convention in the UNCITRAL. Ratification by the United States can be expected to encourage other countries to become parties to the Convention. The Convention would not require any implementing legislation.

I recommend, therefore, that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification by the United States, subject to certain reservations.

BARACK OBAMA.

THE WHITE HOUSE, December 9, 2016.

GEORGE P. KAZEN FEDERAL  
BUILDING AND UNITED STATES  
COURTHOUSE—Continued

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, reclaiming my time, I can't help but note the irony that Senator BOXER, who has done so much to protect special places in California and around our country and who at the same time has consistently worked with our colleague from Oklahoma, Senator INHOFE, on infrastructure—that here they are, after once again coming together—and everybody practically slaps their forehead: How in the world can Senator BOXER and Senator INHOFE keep coming together on all of these kinds of issues? It is because they are real legislators. They are people who don't just throw out press releases, they write legislation. It is hard. It is a heavy lift.

This bill was not easy. To think that Senator BOXER is here on the last night of her time in public service, after she has protected all of these special places and then worked with Senator INHOFE on infrastructure, and we are still faced with this one last hurdle. I have seen a lot of ironies in the Senate. This is just about as dramatic an irony as I have seen.

To me, we have had wonderful statements. My colleague from Oregon laid out very clearly how this rider would compromise good science. That is what this is about. Senator MERKLEY, who knows much more about these subjects, frankly, than I do, went through the biological opinions one by one, the key sections. But the bottom line is, it is compromising good science.

For us in Oregon, you have a water infrastructure bill that is designed to provide support to places like the beautiful Oregon coast. My wife and I were married at Haystack Rock, right in front of the rock, one of the prettiest places on the Oregon coast. Our friend

from Michigan has visited the Oregon coast. This is one of the great American treasures, the Oregon coast and Haystack Rock.

Senator BOXER and Senator INHOFE came up with this terrific bill to provide support to places such as the Oregon coast, where my wife and I were married. You have to say: What is a bill that is designed to provide support for special places really mean when it does not do a whole lot of good if there is no salmon in the ocean, no fishing families or fishing boats in the ports, and no fish at the dinner table? That, colleagues, is what this is really all about.

Now, as far as the infrastructure is concerned, Senator MERKLEY has led this in Oregon and has done terrific work to protect the displaced tribes to ensure that they would have a better quality of life.

I think I have already summed it up. You can't have big-league quality of life with little-league infrastructure. So this legislation ensures that we are going to have that kind of infrastructure. Particularly in rural and coastal Oregon, it would be a huge benefit. But at a time when the Oregon coastal communities need as much help as they can get, the provision that my colleagues—Senator BOXER, Senator CANTWELL, and Merkley—have been talking about deals with drought and really threatens to do just the opposite of providing the help these communities need.

I think that the provision my colleagues have been talking about in effect threatens the very viability of the west coast fishing industry and has literally put so many of the good provisions in this bill at risk.

Senator MERKLEY went into a fair amount of detail—and very eloquently—about the specifics in the drought provisions, so what I would like to do is just highlight a little bit of what I have heard from fishing families on the Oregon coast and what they are concerned about.

Their big concern is that this drought provision basically maximizes water delivery to agribusiness without adequate safeguards for the fisheries that depend on that water. By preauthorizing a number of dams across the entire west coast without additional Congressional oversight, it basically turns years of policy with respect to dams on its head.

We know those issues are tough. We have been dealing with them as westerners for years. But the way we deal with them is collaboratively. That is how Senator BOXER has managed to protect all of these special places. That is how she has managed to work with Senator INHOFE to promote infrastructure at the same time—because we work collaboratively.

That is sure not the case here because all of these small fisheries and the fishing families don't feel they have been consulted. They make a very good case that this really gives the up-

coming administration the authority to determine whether or not salmon is being harmed by maximizing water delivery to big agribusiness.

Water issues for us in the West are never a walk in the park; I think we all understand that. I want to commend our other colleague from California for her hard work. She has put in a tremendous amount of time. I can tell colleagues that she has spoken with me again and again on this issue in order to get an agreement on drought that helps California.

Suffice it to say that Senator MERKLEY and I know our State is no stranger to water challenges, if you just think about the amount of time we spent on the Klamath and the whole host of issues around our State. But, as I touched on, you have to have everybody at the table. It has to be collaborative.

This rider we have been discussing is not a product of compromise. A small west coast industry has been left out of the discussions because the deck was stacked in favor of these very large agribusinesses. Even though those hard-working families in small coastal communities know that a healthy stock of salmon is a lifeline, these stakeholders in the debate not only got short shrift, their voice really was not heard much at all.

So I am going to close by way of saying that we don't think this rider is just about water and agriculture in California; this is going to put at risk the salmon fishing industry up and down the Pacific coast. The drought provision, in my view, threatens to undermine bedrock environment laws like the Endangered Species Act. We have already touched on the power it would give the new administration to override critical environmental laws.

But if you are not from the Northwest, we have talked—Senator CANTWELL has described so thoughtfully what the stakes are. They are enormous for us in the Pacific Northwest. But no matter how many times the sponsors say they don't think this sets a precedent, I think this is going to be pointed too often in the days ahead as we go forward in this present form as an argument for doing the same sort of thing elsewhere.

I and my northwest colleagues have heard a lot from concerned west coast fishery groups and coastal business owners over the last few days. I am very hopeful—I know we are going to vote here in a bit—that the position my colleagues have outlined against this proposal in its current form is supported here in the Senate.

I thank my colleague for her terrific work on this. We have been in public life now a pretty good stretch of time in both the Senate and the House. This is an area, particularly, where Senator BOXER has shown something that I think is going to stand the test of time—the ability to protect special places, the treasures we want our kids and our grandkids to go to. Scarlett