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The Federal Budget and the War on Fisheries

By Zeke Grader

This is the article we didn't plan on writing. The debate over the federal budget, the deficit and the continuing resolution to keep the government running we figured would be old news by the time you picked this issue up around April Fools Day. At the time of this writing, however (in early March), a resolution has just passed to keep the government running for an additional two weeks as the Senate begins debate on the House passed version of the Continuing Resolution or "CR," known as Bill H.R. 1. From what has been included in H.R. 1, it doesn't look like the debate over federal spending cuts is going to end with this CR, but is something that will be with us the rest of the year.

Ordinarily we wouldn't have given a Continuing Resolution much notice, unless there were some key funding issue – such as money for disaster relief for a fishery hit hard by a natural disaster, economic collapse, or regulatory shut-down. This one is different. In it is language that basically declares war on the West Coast salmon fishery. Indeed, it is hard to find anything good in the package – including what was initially proposed along with the numerous amendments that were passed and attached to it.

Where fisheries are not directly attacked in H.R. 1, fishermen end up

being collateral casualties in the numerous other provisions from defunding provisions of the Clean Water Act to blocking health care reform.

This CR attempts to stop all efforts to restore San Joaquin River salmon, eliminates protections for Sacramento salmon migrating through the Bay-Delta Estuary, and essentially halts efforts to rebuild Klamath River salmon populations through the needed and necessary removal of four old hydropower dams that have blocked migration of salmon and caused the significant degradation of water quality in the Klamath River.

Sacramento-San Joaquin River, or Central Valley, salmon make up 90 percent of California's salmon production and in many years account for as much as 50 percent of Oregon and a large percentage Washington's salmon catch. These runs make up a significant part of the total US Chinook salmon production and are the nation's second largest salmon runs. The Klamath-Trinity historically was the third largest salmon producing river system in the lower 48, after the Columbia-Snake and Central Valley systems.

If there was a bit of good news in the CR it was the amendment to block further federal spending to implement so-called "rationalization" plans for the US fishing fleet – plans that essentially would privatize public fishery resour-

ces and radically consolidate control of our fisheries.

"Ratz," or "catch shares" or "individual fishing quotas" as they are called would remove access to fish stocks from fishing communities and fishing families that have traditionally depended on those fish and, instead, permit fisheries to be taken over by a few large corporations. While the CR does include a bi-partisan amendment (51 Democrats voted with the Republicans on this one) to prevent its further implementation on the Atlantic Seaboard and Gulf of Mexico, it does not include the West Coast. Thus, not only is the salmon fishery threatened from a loss of the fish, other West Coast fisheries are now faced with job losses aboard and ashore, and the loss of access by many fishing communities to the fish resources they have traditionally depended upon.

We all understand the need to reign in unnecessary spending in order to control the federal deficit. This CR, however, is not about controlling unnecessary federal spending and eliminating pork barrel spending. It is, leastwise, in the case of salmon, a crude attempt at re-making policy to benefit interests who have done very well in the past at the public trough.

We should point out that in the case of the three provisions in H.R.1 related to salmon, none involved a subsidy; the spending was an outgrowth, rath-



er, from federal obligations under current law to maintain and protect public salmon resources. The amounts of funding cut are also relatively small. The costs to the economy, however, of these ill-conceived provisions – none of which was subject to any policy hearings – would be staggering in terms of job losses and lost food production, most likely permanent.

Here are some of the worst provisions in the House-passed CR and what they would do:

Sec. 1475(a): Would Prohibit Implementing Legal Requirements in the California Central Valley for Salmon, Delta Smelt and Other Species – The House Continuing Resolution contains a provision that would block legally required implementation of the protections of two federal Biological Opinions, one for salmon, steelhead, and green sturgeon and one for Delta smelt, in the San Francisco Bay-Delta Estuary.

This provision leaves all the problems but denies funding to any of the solutions to a long-fought conflict over water use in the Delta. The Bay-Delta is the largest estuary on the West Coast of the Americas. As a direct result of increased water diversions in recent years, numerous species that inhabit this ecosystem, including California's major salmon runs, are collapsing. As a result, the valuable salmon fishery in California was completely closed in 2008 and 2009 for the first time in history, and 2010 had only a very limited season. These closures have resulted in thousands of lost jobs and

hundreds of millions of dollars in lost fishing industry income throughout California and most of Oregon.

Rules governing water diversions were rewritten in 2008 and 2009 to provide more water to protect and restore these important species. This rider in the House Continuing Resolution seeks to turn back the clock by wiping out these new, more balanced rules. This rider would block protections that represent the best available science.

The National Academy of Sciences' National Research Council issued an interim report just last March, 2010, finding that the current rules in the two Biological Opinions are "scientifically justified" and have a "sound conceptual basis." If passed, this rider would throw California water policy into chaos. Here are some additional facts related to this rider in the CR, which does the following:

Undermines Progress in Reaching Balanced Solutions: Blocking legal protections for the SF Bay-Delta and its fisheries would undermine collaborative approaches that are working to solve California's water woes, such as the Bay Delta Conservation Plan. Rather than building trust, collaboration among state and federal agencies, and balanced, science-based solutions that benefit all Californians, this proposal would lead water policy discussions back to gridlock and litigation.

Threatens Water Supplies: This rider could shift the responsibility to protect the environment from federally

subsidized agricultural water users to Southern California, the Bay Area and other farmers. Because the California State Water Project's (SWP) obligations under the California Endangered Species Act require it to fully implement the biological opinions, if this rider were to pass, the SWP could be forced to meet these fish protection measures alone. Thus, waiving full implementation of federal ESA protections may result in less water for many California residents, businesses and farmers.

Threatens Thousands of Farming and Fishing Jobs: Waiving implementation of federal protections could cost thousands of jobs in coastal communities in California and Oregon, by destroying their recreational and commercial salmon fisheries. The recent widespread fishery closures in 2008, 2009 and 2010 were all caused in significant part by record or near record water diversions in the Bay Delta. This closure resulted in lost jobs, shuttered businesses and hundreds of millions of dollars in lost income. In addition, blocking these protections would threaten Delta communities that rely on a healthy Delta environment and clean water to support a regional economy dependant on fishing, recreation and farming.

On the other hand, water user claims of large job losses in the Central Valley blame environmental protections for jobs that were instead lost as a result of the recession and the drought. According to a University of the Pacific economic study, Delta environmental protections led to a nearly un-measurable 0.16% decrease in Central

Valley employment.

Federal Interference with State Water Rights and State Law: Defunding full implementation of legal protections for the Bay-Delta and its fisheries would violate the terms of the water rights held by the federal Central Valley Project. This rider attempts to usurp the State's power over water rights in California, contrary to the Reclamation Act of 1902 and longstanding Congressional precedent. Blocking implementation of these protections is also contrary to California law, including the 2009 state legislative water reform package. SB 7X 1 strengthened environmental and endangered species protections in the Delta, rather than weakening them. It also required reduced reliance on Delta water exports. This rider would create conflicting state and federal mandates for managing the Bay-Delta and California's water supplies.

Undermines Science-Based Protections: This rider would block protections that represent the best available science. The two Bay-Delta Biological Opinions were developed through five separate peer reviews. In addition, at the request of water users, the National Academy of Sciences' National Research Council also undertook an evaluation of these protections. The initial NRC review concluded that these protections are based on the best available science. Other scientific reviews have called for similarly strong – or stronger – protections for the Bay-Delta.

Protects Federal Subsidies



- Not Water Supplies: California has proven water supply tools that can help water users meet their legitimate needs. We saw this during 2010, when farmers who receive water pursuant to junior water rights were able to meet their stated needs through conservation, water transfers and the help of water-rich neighbors. In 2011, the water supply picture is substantially better. This rider is designed more to protect access to federally subsidized water than it is to protect water supplies. The effort to reduce the federal deficit should focus on reducing subsidies – not delivering more taxpayer-subsidized water.

Record Agricultural Harvests: Although the salmon industry has been closed entirely in recent years, agriculture is thriving in California's Central Valley. Nine of the top ten agricultural counties in the nation are in California. California farmers grew over 400 agricultural products in the past two years – leading the nation in 77 of those crops. 2010 produced a record California almond harvest. The harvests for processing tomatoes and grapes also set records in 2009. And in 2009, bucking the national real-estate collapse, California farmland values actually increased.

Damages the West Coast's Largest Estuary: The San Francisco Bay-Delta Estuary is the largest estuary on the West Coast of the Americas. As a direct result of excessive water diversions in the previous decade, the Bay-Delta's ecosystem and fisheries are collapsing. This unneces-

sary rider would threaten one of the nation's most important aquatic ecosystems and undermine the economy and quality of life of the San Francisco Bay Area and the Delta region.

Section 1475(b): Prohibits Implementation of the San Joaquin River Restoration Settlement Act – This rider attempts to prohibit implementation of the San Joaquin River Restoration Settlement Act. This Act, which was enacted into law in 2009 as part of P.L. 111-11, authorizes implementation of a landmark settlement agreement among farmers, environmental and fishing groups, and the federal government to restore flows and salmon to the San Joaquin River and to develop programs to avoid and minimize water supply impacts to local farmers.

This settlement ended 18 years of litigation over the Bureau of Reclamation's operations, which had completely dried up part of California's second longest river and destroyed one of its most important salmon runs. The San Joaquin River Settlement Act was supported by farmers, conservation groups, fishing organizations, and urban water districts, and had bi-partisan support, including the support of the Bush Administration and the Schwarzenegger Administration. The legislation was initially co-sponsored by Congressman Richard Pombo and by Senator Dianne Feinstein.

If enacted, this rider would eliminate funding for projects that improve local flood protection for farms and communities. It would also defund several projects

to improve water supplies in the region and to improve water management. The rider would also seriously undermine California's salmon restoration efforts, and undercut support for the thousands of jobs that depend on healthy salmon runs. It also would harm drinking water quality for the 23 million Californians who get part of their water supply from the San Francisco Bay-Delta.

Defunding this restoration work would waste years of effort and hundreds of millions of dollars that create water supply projects, habitat restoration projects, flood protection improvements – and local jobs. For these reasons, this rider is opposed by all the parties to the Settlement, including local farmers and environmental groups, and by the State of California.

Two other provisions of concern to us were added to HR 1 by floor amendment:

Amendment No. 296 (McClintock), now H.R. 1 Sec. 4028: Defunds a Key Klamath Basin Sedimentation Study and Disables an Ongoing NEPA Process – This policy rider Congressionally prohibits science-based studies necessary for completing an ongoing NEPA [National Environmental Policy Act] analysis of the costs, risks and benefits of the removal of four aging dams in the Klamath River Basin to help restore its severely damaged salmon runs, once the third largest along the West Coast. This scientific study is part of a recently negotiated, locally created and comprehensive Klamath Basin Settlement of many long-standing and bitterly fought Klam-

ath Basin water disputes that took nearly 10 years to negotiate.

That Klamath Settlement is a bipartisan effort – the Bush Administration and California Governor Schwarzenegger started these negotiations and both supported it, as does the Obama Administration. More than 40 Klamath Basin stakeholder organizations, including the States of California and Oregon, three federally recognized Indian Tribes, two counties, multiple irrigation districts, conservation groups and fishing industry organizations have signed these Settlement Agreements.

Section 4028 of the CR unreasonably and unnecessarily delays solutions and carefully negotiated settlements that culminated in the signing of the Klamath Hydroelectric Settlement Agreement (KHSA), and increases the risks of renewed fisheries failures and litigation further harming the fish and those who depend on them – including commercial, recreational and tribal fisheries – and creates further uncertainty and costs for the dam operators and local landowners alike. The KHSA would resolve longstanding disputes over the licensing of four private hydroelectric facilities operated by PacifiCorp Energy on the mainstem Klamath River.

As agreed by the Parties on 18 February, 2010, the KHSA lays out the process for a 2012 decision by the Secretary of the Interior regarding whether removal of four dams owned by PacifiCorp: 1) will advance restoration of the salmonid fisheries of the Klamath Basin; and 2) is in the public interest, which



includes but is not limited to consideration of potential impacts on affected local communities and tribes. The Oregon and California Public Utility Commissions have already both determined that dam removal under the terms of the KHSA is preferable for PacifiCorp's Oregon and California customers to proceeding with far more expensive relicensing through the Federal Energy Regulatory Commission's (FERC) process.

The US Department of the Interior has nearly completed a comprehensive evaluation of the potential effects of dam removal that will provide much needed additional scientific data and analysis on the many resources and interests of the basin. Adoption of this Section 4028 will prevent the Department from completing the study this year, impair the science-based process and prevent all the communities of the Klamath Basin from receiving vital information. This rider would stop this transparent process in its tracks, ending years of careful negotiation and compromise and depriving the public of answers to their questions about whether dam removal is in the public interest.

If approved, Section 4028 would short-circuit an ongoing science review process, waste the \$18 million already devoted to this NEPA process, disrupt efforts to restore the Klamath River's economically important salmon runs, and plunge the Klamath Basin's still fragile rural farming and salmon fishing economies back into chaos – potentially risking thousands of local jobs. Disabling Klamath Basin Tribal water settlements in the Agreements also exposes the federal govern-

ment to potentially massive Tribal Treaty abrogation damage claims.

Amendment No. 548 to H.R. 1: Would Ensure That No CR Funds Be Used to Develop or Approve New Limited Access Privilege Programs for any Fishery Under the Jurisdiction of the South Atlantic, Mid-Atlantic, New England Or Gulf Of Mexico Fishery Management Councils. This is actually something we like. This time-ly would prevent further spending in this fiscal year on new fishery "rationalization" programs, a term that has been used to embrace "catch shares" and "individual fishing quotas" by conferring a quasi-private property right in the fishery to designated individuals.

These quota shares can then be freely sold. But only in the instance of the North Pacific halibut and sablefish IFQ program is quota ownership restricted to those persons actually engaged in the catching of fish. These types of programs have mostly resulted in a massive consolidation of ownership or control of the fishery into a few hands, such as fish processors or individuals not engaged in the actual catching of the fish.

As implemented, Commerce's National Oceanic & Atmospheric Administration (NOAA) has thumbed its nose at Congressional language requiring referendums among those affected for approval of LAPPs (i.e., Catch Share/IFQ) programs, and failed to provide, as required by Congress, for the creation of community fishing associations (CFAs). CFAs were intended to receive initial allocations of quota and protect the interests of fishing

communities traditionally dependent on fish resources from adjacent waters.

NOAA has diverted funds intended for necessary research and data collection – essential for the sustainable management of the nation's fisheries – to, instead, promote its new "rationalization" policy. The only thing wrong with this Amendment, sponsored by Representatives Jones (R-NC), Frank (D-MA) and Pallone (D-NJ), is that it does not include fishing programs on the West Coast or Alaska.

Other Cutbacks: Numerous other provisions in H.R. 1 will indirectly affect the fishing industry or efforts to protect or rebuild fish stocks or prevent contamination of fish, most specifically the defunding of Clean Water Act programs and US Environmental Protection Agency enforcement. Some of the other cutbacks include:

Wetlands and Small Streams: Prohibits use of Fiscal Year 2011 appropriations by EPA for small streams and wetlands protections under Clean Water Act.

Water Quality and Source Water Protection: Reduces funding for the EPA-administered Clean Water and Drinking Water State Revolving Funds by nearly \$2 billion.

Watersheds: Reduces per watershed funding under National Estuaries Program.

Water Recycling and Efficiency: Reduces Title XVI water recycling and Water Smart grants.

State and Tribal Wildlife Grants: Eliminates funding for grants to states for efforts to protect wildlife species from becoming endangered and to avoid the need for list-

ing under endangered species acts.

Land & Water Conservation Fund: Reduces funding by 87% for conservation of lands providing hunting and fishing opportunities and for working farms and ranches.

Cooperative Endangered Species Conservation Fund: Reduces funding for state projects on public and private lands to benefit threatened and endangered species by \$87.6 million.

US Fish & Wildlife Service: Reduces USFWS operations budget by \$65 million, reducing funding for monitoring and protection of endangered fish and wildlife and for siting of renewable energy projects.

Climate Change Adaptation: Reduces funding for Department of Interior climate change adaptation programs by \$48.7 million.

San Francisco Bay Program: Reduces funding for San Francisco Bay restoration projects by \$2 million.

Wetlands Reserve Program: Permanent cut of almost 50,000 acres in Wetlands Reserve Program, which provides grants to farmers and landowners for restoration of wetlands habitat.

USDA Natural Resources Conservation Service: Decrease of \$170 million in technical and financial assistance to landowners for wildlife friendly farm practices.

NOAA Operations, Research and Facilities: \$454 million reduction to the Department of Commerce's National Oceanic & Atmospheric Administration (NOAA) for oceans and atmospheric science, including reductions to several National Marine Fisheries Service (NMFS) programs.



H.R. 1 Also Cuts Health Care and Food Inspection Programs That Would Assist the Fishing Fleet. Several House-passed amendments to H.R. 1 to defund health care reform would block important insurance reforms, cost-containment measures, and coverage improvements.

The US fishing fleet, which lost its historic access to marine hospitals and contract physicians in 1981, has had difficulty finding affordable insurance, if any was available at all, since that time. The recently passed Affordable Health Care Act meant the fleet would once again have access to health care coverage.

But, according to Edwin Park of the Center on Budget & Policy Priorities in an 18 February memo, "the [health care defunding] amendment would bar the use of any funds provided by the legislation to implement any aspect of the Affordable Care Act, the health reform law enacted last year. If enacted, it would effectively block progress for the remainder of the fiscal year in a number of critical areas: protecting consumers, slowing health care cost growth, strengthening program integrity in Medicare and Medicaid, improving

Medicare coverage for seniors and people with disabilities, and helping states prepare for the major coverage elements of the law slated to take effect in 2014."

Deficit Cutting as a Ruse to Destroy Fisheries, Eliminate Consumer and Environmental Protections. Because domestic spending is such a small part of the overall federal budget, it should be clear that these cuts being proposed would make a small change in the size of the federal deficit. For that to happen, the Administration and the Congress will have to tackle entitlements – particularly controlling costs of Medicare and Medicaid, along with military expenditures. Neither has been willing to do that.

It is also clear to us that for many their federal budget deficit concern has also become merely a ruse to enact anti-salmon fishing policies. It is also clear that these proposed cuts are ill-conceived, and likely to harm the very interests these anti-salmon fishing provisions were intended to benefit through continued litigation and uncertainty.

If the House of Representatives were serious about

cutting federal discretionary spending it would have gone after the massive subsidies and tax loopholes provided large agribusiness and the oil industry – both doing very well by the way – instead of attacking salmon and beleaguered salmon fishing men and women.

The House, however, is not the only party guilty of deception and deceit. NOAA, along with its NGO partner, EDF, has sought to use "overfishing" and the "race to fish" as a ruse to consolidate and privatize public fishery resources; "rationalization," after all, is merely an economic allocation tool, not a conservation measure. We would hope in both instances these ruses will be brought to light and stopped once and for all.

Whether we like it or not, it appears the battle over the budget – and its implications for our fisheries – is not going to go away, with new resolutions and riders likely springing up through the rest of this year. For our part we've suggested ways to fund the lion's share of current federal fishery programs (see FN, August 2003, www.pcffa.org/fn-aug03.htm) and this would be a good time to begin those discussions – if, in fact, anyone is really seri-

ous in DC about cutting budgets without doing a hatchet job on necessary federal programs. Maybe its time for fishermen to show everyone else how to get in a boat alone with capsizing it.

This would be a good time for West Coast fishermen to begin discussions with their Congressional Representative and US Senators, telling them that we expect serious deliberations about the federal budget with an eye on both the deficit and maintaining essential programs Americans depend upon – a balance that will best be achieved by some combination of entitlement (including big industry subsidies) and military spending reduction and increased revenues. For America's oldest industry, our fish – and our fisheries – are at stake. 🐟

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